

The British Empire Dictionary

ACOUSTIC.

12

ACROTISM.

acoustic, *á-kous'- & á-kóos'tik*, *adj.* belonging to the science of sound; *n.* a remedy for deafness.

acoustic-duct, *-dukt*, *n.* the external passage of the ear.

acoustic-nerve, *-nerv*, *n.* the auditory nerve.

acoustic-telograph, *-tel'e-gráf*, *n.* a telephone; a telegraph reproducing sounds at a distance.

acoustically, *-ál-lj*, *adv.* in an acoustic manner.

acustician, *á-kous'- & á-kóos'tish'an*, *n.* one skilled in acoustics.

acustics, *á-kous'- & á-kóos'tiks*, *n.* the science of sound; the study of the effects of sound upon the organ of hearing.

acquaint, *ak-kwánt'*, *v.t.* to familiarise or make oneself conversant with; furnish information.

acquaintance, *ak-kwánt'sans*, *n.* the state of being acquainted with a person or subject; personal knowledge less than friendship; person with whom one is acquainted.

acquainted, *ak-kwánt'ed*, *p.adj.* having personal knowledge; familiar, known (*of & with*).

acquest, *ak-kwest'*, *n.* acquirement; acquisition; property or possession acquired other than by inheritance or succession.

acquiesce, *ak-kwi-es'*, *v.i.* to agree; comply assively; assent [followed usually by *in*].

acquiescence, *ak-kwi-es'ens*, *n.* the act of submitting; silent assent; neglect to take legal proceedings so as to imply consent.

acquiescent, *ak-kwi-es'ent*, *adj.* disposed to submit or yield tacitly; resting satisfied.

acquirable, *ak-kwir'á-bl*, *adj.* capable of being acquired.

acquire, *ak-wir'*, *v.t.* to gain or obtain possession of by one's own physical or intellectual exertions.

acquirement, *ak-kwir'ment*, *n.* the act of acquiring; that which is acquired.

acquisition, *ak-kwi-zis'hun*, *n.* the act of acquiring; the object acquired.

acquisitive, *ak-kwi-z'i-tiv*, *adj.* having a propensity to acquire; greedily disposed.

acquisitiveness, *-nes*, *n.* the propensity to acquire.

acquit, *ak-kwit'*, *v.t.*, *pres.* & *p.p.* acquitted, *pr.* acquitting; to release; set free; discharge; to pronounce not guilty.

acquit'al, *ak-kwit'al*, *n.* the act of releasing or acquitting; the state of being acquitted; a judicial pronouncement of "not guilty."

acquittance, *ak-kwit'ans*, *n.* a discharge or release from debt or other liability; a receipt barring a further demand.

acre, *á-kér*, *n.* a superficial measure of land containing, in Great Britain, the U.S., and the Colonies, 4,840 sq. yds.

acreage, *á-kér-áj*, *n.* the number of acres in a tract of land.

acred, *á-kérd*, *adj.* possessing acres or landed property.

acrid, *ak'rid*, *adj.* sharp or biting to the taste; pungent; irritating; stinging; *n.* an acrid or irritant poison.

acridity, *ak-rid'i-ti*, *n.* the quality of being acrid.

acrimonious, *ak-ri-mó-nj-us*, *adj.* bitter; caustic; stinging.

acrimony, *ak-ri-mó-nj*, *n.* sharpness of temper; bitterness of expression.

acritical, *á-krit'i-kal*, *adj.* having no crisis.

acrobat, *ak-ró-bat*, *n.* a performer on the tight-rope; one who practises tumbling, vaulting, trapezing, &c.

acrobaticism, *ak-ró-bat-izm*, *n.* the performance of acrobatic feats; the profession of an acrobat.

acrocarpona, *ak-ró-kárp'us*, *adj.* having (like the mosses) the fruit at the end of the primary axis.

acrocephalic, *ak-ró-sel'á-lik & -sél'á'lik*, *adj.* high-skulled; *n.* a man characterised by a high skull.

acrogen, *ak-ró-jen*, *n.* a cryptogamic plant.

acrogenous, *ak-roj'en-us*, *adj.* of the nature of the acrogens; increasing by growth from the top, as the tree-ferns.

acroglyphy, *ak-rográ-fi*, *n.* a method by which designs in relief on stone or metal are produced through a ground of solidified finely-powdered chalk.

acrolith, *ak-ró-lith*, *n.* a sculptured figure, the head and extremities of which are of stone and the rest of wood.

Acropolis, *á-krop'ó-lis*, *n.* the highest part or citadel of a Grecian city, as that of Athens, hence a citadel.

Acrospire, *ak-ró-spir*, *n.* the sprout of a seed.

Acrospired, *ak-ró-spir'd*, *p.adj.* having sprouts at both ends.

across, *á-kró's & -kros'*, *adv.* & *prep.* from side to side; transversely; adversely; athwart; intersecting at an angle.

Acrostic, *á-kros'tik*, *n.* a composition usually in verse, in which the first or last letters of the lines, or other letters, taken in order, form a motto, phrase, name, or word.

Acrostically, *-i-kal-lj*, *adv.* in the manner of an acrostic.

Acrotic, *á-krot'ik*, *adj.* affecting the surface.

Acrotism, *ak-ró-tizm*, *n.* weakness or absence of pulse.

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ACT.

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ACUPRESSURE

act, *n.* an action, process of doing; a decree of Parliament; the judgment of a court; a formal writing; one of the principal divisions of a drama; a thesis maintained by a candidate for a degree at a university: *v.t.* to do; perform; play, as on the stage; set in motion: *v.i.* to exert force or energy.

drop, *n.* the curtain lowered between the acts at a play.

of God, *of god*, *n.* a direct and irresistible act of nature that could not reasonably have been foreseen or guarded against.

of Grace, *of grās*, *n.* a general pardon or grant of privilege on the accession to the throne of a new sovereign or some special occasion.

act, *ak'ta*, *n.pl.* acts; proceedings in law and ecclesiastical courts; the records of such transactions.

acting, *akt'ing*, *p.adj.* performing a service, as those of an official.

actinia, *ak-tin'i-ā*, *n.*; *pl.* Actinæ, *-ē*, a genus of zoophytes characterised by their resemblance to flowers when the tentacles of the mouth are spread out, called popularly sea-anemones and sea-flowers.

actinoid, *ak-tin'oid*, *adj.* having the property of actinism.

actinic Process, *prō'ses*, *n.* a general term for any kind of photo-engraving.

actinic Rays, *rāz*, *n.pl.* the rays of the sun which produce chemical combinations and decompositions.

actiniform, *ak-tin'i-fōrm*, *adj.* possessing a radiated form.

actinism, *ak-tin-izm*, *n.* that property of the sun's rays which produces chemical action.

actinograph, *ak-tin'ō-graf*, *n.* an instrument for measuring the variation of the chemical rays of light.

actinoid, *ak-tin'oid*, *adj.* having the form of rays; resembling a star-fish.

actinology, *ak-ti-nol'ō-jī*, *n.* the science that treats of the chemical action of light.

actinometer, *ak-tin-om'et-ēr*, *n.* an instrument for measuring the intensity of heat-rays.

actinosa, *ak-tin'ō-zō-ā*, *n.pl.* a class of radiated soft marine zoophytes, which includes the sea-anemones, corals, &c.

acton, *ak'shun*, *n.* the state of being active; opposed to rest; the effect of one body on another (*used in sing.*); an act or thing done (*used in pl.*); a suit instituted by one party against another in a court of law; the gesture or deportment of a speaker; the performance of a function; active motion, as of machinery; the

appearance of animation, &c., given to figures; an engagement on sea or land, less important than a battle.

Actionable, *ak'shun-ā-bl*, *adj.* giving grounds for an action at law.

Active, *ak'tiv*, *adj.* endowed with or exercising the power or quality of action; constantly active; the performance and not the continuance of an action; lively, moving freely; acting quickly.

Active Bonds, *bonz*, *n.pl.* bonds bearing a fixed rate of interest from date of issue.

Active Capital, *kap'i-tal*, *n.* money used in business.

Active Commerce, *kom'ers*, *n.* commerce carried on by a nation in its own vessels.

Active List, *list*, *n.* the roll or list of officers of the navy or army liable to be called upon for active duty.

Active Service, *sēr'vis*, *n.* duty performed against an enemy.

Activity, *ak-tiv'i-ti*, *n.*; *pl.* Activities, *-tiz*, energy; the state of action.

Actor, *ak'tōr*, *n.* one who acts or performs; a stage-player; a proctor or advocate in civil causes.

Actress, *ak'tres*, *n.* a female actor.

Actual, *ak'tū-əl*, *adj.* real; existing; present.

Actualisation, *ak'tū-əl-i-zā'shun*, *n.* making actual.

Actualise, *ak'tū-əl-iz*, (*v.t.* to make actual).

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Actualities, *ak'tū-āl'i-ti*, *n.*; *pl.* Actualities, *-tiz*, the state of being real or actual; that which is in full existence.

Actually, *ak'tū-əl-lī*, *adv.* as an existing fact.

Actuary, *ak'tū-ā-rī*, *n.*; *pl.* Actuaries, *-iz*, a registrar or clerk of a court; one who is skilled in life assurance and similar computations.

Actuate, *ak'tū-āt*, *v.t.* to move or incite to action.

Actuation, *ak-tū-ā'shun*, *n.* the state of being actuated or impelled.

Aculeate, *ā-kū'lē-āt*, *adj.* equipped with a sting; having aculei or sharp prickles; *n.* certain insects furnished with stings, as the bee.

Acumen, *ā-kū'men*, *n.* quickness of perception; penetration; insight; discrimination.

Acuminate, *ā-kū'min-āt*, *adj.* ending in a sharp point.

Acupress, *ak'ū-pres*, *v.t.* to check hemorrhage by acupressure.

Acupressure, *ak'ū-presh'ēr*, *n.* a method of checking hemorrhage in arteries during amputations by needles or wire.

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act (*akt*), *n.* an action; process of doing; a decree, edict, or enactment; the judgment of a court; a formal writing; one of the principal divisions of a drama; a thesis maintained by a candidate for a degree at a university: *v.t.* to do; perform; play, as on the stage; set in motion: *v.i.* to exert force or energy.

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ADJACENT.

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acute (â-kût'), *adj.* sharp-pointed; intellectually sharp; quick of perception; severe; as pain or symptoms attending a disease; high in pitch; shrill.

adactyl (â-dak'til), *adj.* without toes.

adage, ad'âj, *n.* an ancient proverb, or pithy saying.

adagio, â-dâ'jô, *n.* a slow movement; slowly and with grace; when repeated, signifying very slow.

adam's ale, ad'amz âl, *n.* water.

adam's apple, apl, *n.* a lofty species of the banana; the prominence in front of the throat, especially conspicuous in males.

adam's needle, nê'dl, *n.* the popular name of the yucca.

adamant, ad'â-mant, *n.* a substance of extreme hardness; the diamond: *adj.* formed of adamant; hard.

adamantine, ad-â-man'tin, *adj.* made of adamant; impenetrable.

adapt, â-dapt', *v.t.* to make to correspond; fit by alteration or adaptation.

adaptability, â-dap-tâ-bil'i-ti, *n.* the quality of being adaptable.

adaptation, ad-ap-tâ'shun, *n.* the act of adjusting or adapting; the state of being adapted; that which is adapted.

adaye, â-dâz, *adv.* by day; on, or in, the day.

add, ad, *v.t.* to join, unite, sum up; increase; affix.

added money, -ed-mun'î, money given by a club to increase the sweepstakes.

addendum, ad-den'dum, *n.*; *pl.* Addenda, -dâ, an appendix.

adder, ad'êr, *n.* the popular name for the viper.

addict, ad dikt', *v.t.* to devote or give oneself up to; to practise sedulously (usually in a bad sense).

addition, ad-dish'un, *n.* the act or process of adding together; increase; the result of addition; the thing added; the adding or uniting of two or more numbers in one sum; a title added to a name, denoting rank, as esquire; a dot placed at the side of a note to indicate the lengthening of the sound by one-half.

additional, ad-dish'un-âl, *adj.* added; supplementary.

Additionally, -li, *adv.* in addition to.

additive, ad'di-tiv, *adj.* that may be, or is to be, added.

addle, ad'l, *n.* & *adj.* rotten, as eggs that are barren or putrid; *v.t.* to make corrupt or putrid, as eggs; *v.i.* to become addled.

addle-headed, {adl-hed'ed} *adj.* stupid; **addle-pated**, {adl-pâ'ted} *adj.* weak-brained; muddled.

Adorsed. See Adorsed.

Address, ad-dres', *v.t.* to straighten; to bring into line; to arrange, redress, as wrongs, &c.; to direct; speak or write to; get ready; consign; *n.* a speech delivered or written; manners and bearing; tact; adroitness; the attention of a lover.

Addressee, ad-dres-ê', *n.* one who is addressed.

Adduce, ad-dûs', *v.t.* to bring forward or cite in proof or substantiation of what is alleged.

Adducet, ad-dû'sent, *adj.* bringing forward or together.

Adducible, ad-dû'si-bl, *adj.* capable of being adduced.

Adductive, ad-duk'tiv, *adj.* bringing forward.

Adductor, ad-duk'tôr, *n.* one who draws to.

Adductor Muscles, mus'els, *n. pl.* muscles which draw certain parts to a common centre.

Adelphous, â-delf'us, *adj.* having clustered filaments.

Ademption, â-demp'shun, *n.* the revocation of a grant; the lapse of a legacy.

Adept, â-dept', *adj.* well skilled; *n.* one who is fully proficient or skilled in an art.

Adequacy, ad'ê-kwâ-si, *n.* adequate; sufficiency for a particular purpose.

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Adefected, ad-fek'ted, *adj.* compounded; consisting of different powers of an unknown algebraic quantity.

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Adhere, ad-hêr', *v.i.* to stick fast, become firmly attached to.

Adherence, ad-hêr'ens, *n.* the act or state of adhering; unwavering attachment.

Adherent, ad-hêr'ent, *adj.* adhering; sticking; *n.* one who adheres; a follower of a party or leader.

Adhesion, ad-hê'zhun, *n.* the state or act of adhering.

Adhesive, ad-hê'siv, *adj.* holding fast; gummed for use; sticky.

Adieu, â-dû & â-dû, *n.*; *pl.* Adieux, Adieus, -dûz, farewell; good wishes at parting.

Adipose, {ad'i-pôs,} *adj.* fat; of a fatty nature.

Adipous, {ad'i-pus,} *n.* nature.

Adipsia, â-dip'si-â, *n.* absence of thirst.

Adit, ad-it, *n.* an entrance or passage; an entrance to a mine more or less horizontal.

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ADJECTIVAL

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ADMIXTURE

adjectival, ad-jek-ti'vål, *adj.* of the nature of an adjective.

adjective, ad-jek-tiv, *n.* a word used with a substantive or noun to express the quality or attribute of the thing named, or to limit and define a thing as distinct from something else.

adjoin, ad-join', *v.t.* to unite or join; *v.i.* to lie next to.

adjourn, ad-jern', *v.t.* to put off to another day.

adjournment, ad-jern'ment, *n.* the act of adjourning; the postponement of a meeting.

adjudge, ad-juj', *v.t.* to determine in a controversy.

adjudged, ad-juj'd, *adj.* determined by judicial decree.

adjudgment, ad-juj'ment, *n.* the act of judging.

adjudicate, ad-jü'- & ä-jü'di-kät, *v.t.* to try and determine a case as a court.

adjudication, ad-jü'di-kä'shun, *n.* the act of determining judicially; a judicial sentence.

adjudicator, ä-jü'di-kä-tör, *n.* one who adjudicates.

adjunct, ad-jungkt, *n.* something added to another thing, but not an essential part of it.

adjunctive, ad-jungkt'iv, *adj.* having the quality of joining or uniting.

adjunctly, ad-jungkt-li, *adv.* in connection with.

adjuration, ad-jü-rä'shun, *n.* the solemn charging on oath; the form of an oath.

adjure, ad-jür', *v.t.* to command on oath under pain of a penalty; to charge solemnly.

adjust, ad-just', *v.t.* to fit, or make exact; to make correspondent; to make accurate.

adjuster, ad-just'ter, *n.* one who regulates or adjusts.

adjustment, ad-just'ment, *n.* the act of adjusting.

adjutancy, ad-jü-tän-si, *n.* the office of an adjutant.

adjutant, ad-jü-tänt, *n.* a regimental staff-officer who assists the commanding officer.

Adjutant-General, -jen'er-al, *pl.* Adjutants-General, the chief staff-officer of an army, through whom all orders, &c., are received and issued by the general commanding.

admeasure, ad-mezh'ur, *v.t.* to measure dimensions; apportion.

admeasurement, ad-mezh'ur-ment, *n.* a measurement by a rule.

administer, ad-min'is-tér, *v.t.* to act as chief agent or minister, as a king, president, or judge; direct the application of

the laws; dispense; to cause to be taken, as medicine; to give, as an oath or a sacrament.

Administratorial, ad-min-is-tér'i-äl, *adj.* pertaining to administration.

Administrable, ad-min'is-trä-bl, *adj.* capable of being administered.

Administration, ad-min-is-trä'shun, *n.* the act of administering, as government, justice, medicine, a sacrament, or an intestate's estate; the ministry.

Administrative, ad-min'is-trä-tiv, *adj.* pertaining to administration.

Administrator, ad-min'is-trä-tör & -trä'tör, *n.* one who administers affairs; one who settles the estate of an intestate.

Administratrix, -trä'triks, *n.* a female administrator.

Admirable, ad-mi-rä-bl, *adj.* worthy of admiration; excellent.

Admiral, ad-mi-räl, *n.* the chief commander of a fleet; a naval officer of the highest rank, of which there are four grades.

Admiral-shell, -shel, *n.* the popular name of a beautiful cone-shell.

Admiralty, ad-mi-räl-ti, *n.* *pl.* Admiralties, -tiz, the department of a government having authority over naval affairs; the building in which naval affairs are transacted.

Admiralty-charts, *n. pl.* -charts, specially prepared charts issued by the hydrographic department of the Admiralty for the use of the fleet and mercantile marine. Their scale is usually half an inch to the mile.

Admiralty Court, kort, *n.* a branch of the Probate, Divorce, and Admiralty Division of the High Court of Justice.

Admiration, ad-mi-rä'shun, *n.* wonder excited by beauty or excellence.

Admire, ad-mir', *v.t.* to regard with strong approval.

Admissible, ad-mis'i-bl, *adj.* worthy of being admitted.

Admission, ad-mish'un, *n.* the power or permission to enter; the granting of an argument.

Admit, ad-mit', *v.t. & p.p.* admitted, *p.pr.* admitting, to permit to enter; allow in argument; receive.

Admittable, ad-mit'a-bl, *adj.* admissible.

Admittance, ad-mit'äns, *n.* the power or permission to enter.

Admix, ad-miks', *v.t.* to mix with something else.

Admixture, ad-miks'tür, *n.* a compound of substances mixed together.

Webster's New Illustrated Dictionary

adjectival (ad-jek-ti'vål), *adj.* of the nature of an adjective.

adjective (ad-jek-tiv), *n.* a word used with a substantive or noun to express the quality or attribute of the thing named, or to limit and define a thing as distinct from something else.

adjoin (ad-join'), *v.t.* to unite or join; *v.i.* to lie next to.

adjourn (ad-jern'), *v.t.* to put off to another day.

adjournment (ad-jern'ment), *n.* the act of adjourning; the postponement of a meeting.

adjudge (ad-juj'), *v.t.* to determine in a controversy.

adjudged (ad-juj'd), *adj.* determined by judicial decree.

adjudgment (ad-juj'ment), *n.* the act of judging.

adjudicate (ad-jü'di-kät), *v.t.* to try and determine a case as a court.

adjudication (ad-jü'di-kä'shun), *n.* the act of determining judicially; a judicial sentence.

adjudicator (ä-jü'di-kä-tör), *n.* one who adjudicates.

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admixture (ad-miks'tür), *n.* a compound of substances mixed together.

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The British Empire Dictionary

ADMONISH

16

ADVENT SUNDAY.

admonish (ad-mon'ish), *v.t.* to reprove gently; warn; instruct.
admonition (ad-mō-nish'un), *n.* friendly reproof or warning.
admonitory (ad-mon'i-tō-rī), *adj.* conveying reproof or warning.
adnascent (ad-nas'ent), *adj.* growing upon something else.
adnate (ad'nāt), *adj.* with organic cohesion unlike parts.
adobe (ā-dō'bā), *n.* an attributive word or adjective; an adjective used as a noun, as *adobe house*.
ado (ā-dōō'), *n.* bustle; trouble.
adobe (ā-dō'bā), *n.* unburnt brick dried in the sun, used for building in Central America and Mexico.
adescence (ad-ō-les'ens), *n.* the period of life between puberty and maturity; youth.
adlescent (ad-ō-les'ent), *adj.* growing to maturity.
adopt (ā-dopt'), *v.t.* to choose or take to oneself, as a child, an opinion, or a course of action.
adoption (ā-dop'shun), *n.* the act of adopting; the state of being adopted; voluntary acceptance; admission into more intimate relations.
adoptive (ā-dop'tiv), *adj.* constituted by adoption.
adorable (ā-dōr'ā-bl), *adj.* worthy of worship.
adoration (ad-ō-rā'shun), *n.* the act of worship.
adere (ā-dōr'), *v.t.* to pay divine honors to; honor highly; love intensely; admire greatly; *v.i.* to offer worship.
adorn (ā-dōrn'), *v.t.* to beautify; dignify; ornament; embellish.
adornment (ā-dōrn'ment), *n.* ornament; decoration.
adown (ā-doun'), *adv. & prep.* downward; down.
adpressed (ad-pres't), *adj.* closely pressed to surface.
adrift (ā-drift'), *adj. & adv.* floating at random.
adroit (ā-droit'), *adj.* exhibiting skill; dexterous.
adulation (ad-ū-lā'shun), *n.* interested praise; flattery.
adulator (ad'ū-lā-tō-rī), *n.* a flatterer.
adulatory (ad'ū-lā-tō-rī), *adj.* flattering.
adult (ā-dult'), *adj.* grown up to full age, size, and strength; *n.* a man or a woman.
adulterant (ā-dul'tēr-ant), *adj.* adulterating; *n.* the person or thing that adulterates.
adulterate (ā-dul'tēr-āt), *v.t.* to corrupt by baser admixture; *adj.* corrupted by baser admixture.
adulteration (ā-dul'tēr-ā'shun), *n.* the debasing or being debased by admixture; deterioration.
adulator (ā-dul'tēr-āt), *n.* one who corrupts or adulterates.
adulterer (ā-dul'tēr-ēr), *n.* a man who commits adultery.
adulteress (-es), *n.* a woman who commits adultery.
adulterous (ā-dul'tēr-us), *adj.* guilty of adultery.
adultery (ā-dul'tēr-i), *n.* [pl. adulteries (-iz)], violation of the marriage-bed.
adumbrant (ad-um'brānt), *adj.* shadowing forth.
adumbrate (ad-um'brāt), *v.t.* to shadow forth; give a faint resemblance of.
adumbration (ad-um'brā'shun), *n.* the act of shadowing forth.
adumbrative (ad-um'brā-tiv), *adj.* faintly representing; typical.
aduncous (ad-ung'kus), *adj.* hooked, as a parrot's bill.
advance (ad-vāns'), *v.t.* to go forward; *v.i.* to further; to make a payment of beforehand; *n.* improvement; an addition to or rise in value; an overture (usually used in pl.); a loan; payment beforehand.
advancement (ad-vāns'ment), *n.* furtherance; progress; promotion.
advantage (ad-vān'tāj), *n.* a state of advance or forwardness; a benefit; the first point gained after deuce.
advantageous (ad-vān'tā'jus), *adj.* of advantage; beneficial.
advent (ad'vent), *n.* a coming or arrival.
Advent (ad'vent), *n.* the period including the four Sundays before Christmas.
Advent Sunday, sun'dā, the Sunday nearest (whether before or after) to St. Andrew's Day (Nov. 30).

Webster's New Illustrated Dictionary

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The British Empire Dictionary

ADVENTITIOUS.

17

AEROCYST.

adventitious, ad-ven'tish'us, *adj.* happening by chance; casual; fortuitous; accidental; produced out of normal and regular order.

adventual, ad-ven'tū-āl, *adj.* relating to the season of Advent.

adventure, ad-ven'tūr, *n.* an event the issue of which is determined by chance: *v.t.* to hazard or risk.

adventurer, ad-vent'ūr-ēr, *n.* one who undertakes adventures; a speculator; one who seeks social distinction by false or specious pretences.

adventress, -ūr-es, *n.* a female adventurer; usually in a bad sense).

adventuresome, (ad-ven'tūr-sum), *adj.* adventurous, (ad-ven'tūr-us), *clined* to incur risk; full of risk; daring.

adverb, ad'verb, *n.* a word used to modify the sense of a verb or adjective.

adverbial, ad-vēr'bi-āl, *adj.* of the nature of an adverb.

adverbially, -li, *adv.* with the force of an adverb.

adversary, ad-vēr-sār-i, *n.*; *pl.* Adversaries, -i, an opponent.

adversative, ad-vēr'sā-tiv, *adj.* expressing opposition.

adverse, ad'vers, *adj.* opposed to; contrary; unfortunate; inimical.

adversity, ad-vēr'si-ti, *n.* a state of things adverse; the reverse of prosperity; misery.

avert, ad-vért, *v.i.* to turn one's attention to; refer.

avertence, ad-vēr'tēns, *n.* attention.

avertency, ad-vēr'ten-si, *n.* the habit of being attentive.

avertent, ad-vēr'tent, *adj.* attentive.

avertently, -li, *adv.* in an intentional manner.

avertise, ad-vēr'tiz, *v.t.* to turn the attention of others to; announce; publish.

avertisement, ad-vēr'tiz-ment, *n.* a notice in a public print; an announcement.

avis, ad-vis', *n.* an opinion given for the practical direction of conduct; information given by letter; counsel.

avis-boat, -bōt, *n.* a vessel employed to carry despatches.

avisable, ad-vi'zā-bl, *adj.* fit to be advised; prudent; expedient.

avisability, ad-vi'zā-bil'i-ti, *n.* the quality of being advisable; desirability.

avis, ad-viz', *v.t.* to offer an opinion; counsel; inform.

avis'd, ad-viz'd, *p. adj.* acting with caution.

avis'dly, ad-viz'd-li, *adv.* with advice; with intention; deliberately.

Advisory, ad-vi'zō-rī, *adj.* having power to advise; containing advice.

Advocacy, ad'vō-kā-si, *n.* the act of pleading for.

Advocate, ad'vō-kāt, *n.* one called to the aid of another; one who pleads the cause of another; a barrister; a counsel.

Advocator, ad'vō-kā-tōr, *n.* an advocate; a supporter.

Advowee, ad-vou-ē', *n.* one who has an advowson; the patron of a living.

Advowson, ad-vou-zn, *n.* the right of presentation to a benefice.

Adynia, ā-din-ā'mi-ā, *n.* great debility; physical weakness.

Adze, (ad-ven'tūr-us), *clined* to incur risk; full of risk; daring.

Adze-plane, a tool for moulding and rabbeting.

Edile, (ē-dil), *n.* a Roman magistrate who exercised supervision over the temples, public and private buildings, the markets, public games, sanitation, &c., hence a municipal officer.

Ægophony, ē-gōfō-ni, *n.* a sound like the bleating of a goat heard on auscultation in chest-diseases.

Holian Harp, ē-ō'li-ān hārp, *n.* a stringed instrument, the wires of which are set in motion by air.

Eon, (ē-on), *n.* a period of immense duration; an age.

Aérate, ā-ēr-āt, *v.t.* to combine or charge with carbonic-acid gas, or with air.

Aërated Bread, bred, *n.* bread raised by charging the dough with carbonic-acid gas.

Aërated Waters, wā'ters, *n.pl.* waters impregnated with carbonic-acid gas.

Aëration, ā-ēr-ā'shun, *n.* the act of aërating; oxygenation of the blood by exposure to the air in respiration.

Aëiator, ā-ēr-ā-tōr, *n.* an apparatus for making aërated waters.

Aërial, ā-ēr-i-āl, *adj.* belonging to the air.

Aërially, -li, *adv.* like the air.

Aëriferous, ā-ēr-i-fēr-us & ā-e-rif-e-rus, *adj.* air-bearing.

Aëriification, ā-ēr-i-f-i-kā'shun, *n.* the state of being aeriform.

Aëriiform, ā-ēr-i-fōrm, *adj.* having the form of air; gaseous.

Aëriify, ā-ēr-i-fi, *v.t.* *pret.* & *p.p.* aëriified *p.pr.* aëriifying, to combine with air.

Aerocyst, ā-ēr-ō-sist, *n.* one of the air-bladders of algae.

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advowson (ad-vou-zn), *n.* the right of presentation to a benefice.

adynamia (ā-din-ā'mi-ā), *n.* great debility; physical weakness.

adze or adz (adz), *n.* a cutting tool having a curved blade at right angles to the handle, used for dressing timber by ships' carpenters, coopers, &c. **adze-plane**, a tool for moulding and rabbeting.

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aëriify (ā-ēr-i-fi), *v.t.* [p.t. & p.p. aëriified, p.pr. aëriifying], to combine with air.

aerocyst (ā-ēr-ō-sist), *n.* one of the air-bladders of algae.

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The British Empire Dictionary

AERO-DYNAMICS.

18

AFFIRMATION.

aerodynamics, *ā-ēr-ō-di-nam'iks*, *n.* the science which treats of air in motion.

aërolite, (*ā-ēr-ō-lit*), *n.* a stone falling from the air; a meteorite.

aërolitic, *ā-ēr-ō-lit'ik*, *adj.* pertaining to aërolites.

aërologic, (*ā-ēr-ō-loj'ik*), *adj.* pertaining to aërology.

aërology, *ā-ēr-ol'ō-jy*, *n.* the science which treats of the air.

aërometer, *ā-ēr-om'e-tēr*, *n.* an instrument for weighing the air.

aëronaut, *ā-ēr-ō-nāt*, *n.* an aerial navigator; a balloonist.

aëronautic, (*ā-ēr-ō-nā'tik*), *adj.* pertaining to aëronautics.

aëronautical, (*ā-ēr-ō-nā'tik*), *adj.* pertaining to aëronautics.

aëronautics, *ā-ēr-ō-nā'tiks*, *n.* aerial navigation.

aërophone, *ā-ēr-ō-fōn*, *n.* an instrument invented by Edison for increasing the intensity of sound.

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aërophyte, *ā-ēr-ō-fit*, *n.* an air-plant; a parasitical plant.

aërostat, *ā-ēr-ō-stat*, *n.* a balloon; a flying machine.

aërostatic, (*ā-ēr-ō-stat'ik*), *adj.* pertaining to aërostatics.

aërostatical, (*ā-ēr-ō-stat'ik*), *adj.* pertaining to aërostatics.

aërostatics, *ā-ēr-ō-stat'iks*, *n.* the science which treats of the equilibrium of bodies sustained in air.

aëry, *ēr'i*, *n.* an eagle's nest; a brood of eagles or hawks.

aesthesiometer, *ēs-thē-si-om'e-tēr*, *n.* an instrument for determining sensibility of touch.

ethete, *ēs'thēt*, *n.* one who exaggerates estheticism.

esthetic, (*ēs-thet'ik*), *adj.* pertaining to esthetics.

esthetic, (*ēs-*), *adj.* pertaining to esthetics.

esthetic School, (*ēs-thet'ik*), a school of art composed of devotees of the beautiful.

estheticism, (*ēs-thet'ik-sizm*), *n.* love for, or devotion to, the beautiful.

esthetics, (*ēs-thet'iks*), *n.* the science or theory of the beautiful.

esthetics, (*ēs-*), *theory of the beautiful.*

esthophysiology, *ēs-thē-fiz-i-ol'ō-jy*, *n.* the physiology of sensation.

estivation. See Estivation.

ether. See Ether.

ethioscope, *ē-thri-ō-skōp*, *n.* an instrument for measuring changes of temperature of the sky, as when clear or clouded.

Etymology. See Etymology.

Afar, *ā-fār*, *adv.* at, to, or from, a distance.

Affability, *af-ā-bil'i-ti*, *n.* the quality of being affable.

Affable, *af-ā-bl*, *adj.* easy to be addressed; courteous.

Affair, *af-ār*, *n.* that which is done, or is to be done; business.

Affect, *ā-fekt' & af-fekt'*, *v.t.* to produce an effect upon; seek by natural affinity; assume the appearance of; pretend.

Affectation, *af-ek-tā'shun*, *n.* the assuming a manner which is not one's own.

Affecting, *ā-fek'ting*, *adj.* having power to excite the emotions; pathetic.

Affection, *ā-fek'shun*, *n.* having the feelings affected; inclination; attachment; fondness; disease.

Affectional, *ā-fek'shun-āl*, *adj.* relating to the affections.

Affectionate, *ā-fek'shun-āt*, *adj.* having affection; kind.

Afferent, *af-fēr-ent*, *adj.* conveying inwards or to a part.

Affettuoso, *āf-fet-too-ō'sō*, *adj.* tender; pathetic; a direction in music.

Affiance, *af-fī'āns*, *n.* trust; a marriage-contract; *v.t.* to betroth.

Affix, *ā-fīx*, *v.* to fasten; to attach; to affix to a wall; a poster.

Affidavit, *af-i-dā'vit*, *n.* a sworn statement in writing.

Affiliated, *ā-fil'i-āt*, *adj.* capable of being affiliated.

Affiliate, *ā-fil'i-āt*, *v.t.* to assign a child to its father; connect with in origin; connect with a parent society; *v.i.* to be intimately connected or associated (followed by *with*).

Affiliation, *ā-fil-i-ā'shun*, *n.* assignment of a child to its father; connection by way of descent.

Affinity, *ā-fin'i-ti*, *n.* *pl.* Affinities, viz. nearness of kin. [Affinity is relationship by marriage; consanguinity, relationship by blood.] Physical or chemical attraction; a relationship between species or groups depending on similarity of structure.

Affirm, *ā-fēr'm' & af-fēr'm*, *v.t.* to assert strongly; *v.i.* to confirm, as a judgment, decree, or order, in an appellate court; aver.

Affirmance, *ā-fēr-māns*, *n.* confirmation.

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Affirmation, *af-ēr-mā'shun*, *n.* an avowment; the solemn declaration permitted to those

Webster's New Illustrated Dictionary

aëro-dynamics (*ā-ēr-ō-di-nam'iks*), *n.* the science which treats of air in motion.

aërogram (*ā-ēr-ō-gram*), *n.* a wireless telegraph message.

aërolite (*ā-ēr-ō-lit*), *n.* a meteorite.

aërometer (*ā-ēr-om'e-tēr*), *n.* an instrument for weighing the air.

aëronaut (*ā-ēr-ō-naw't*), *n.* an aerial navigator; a balloonist.

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affirmation (*af-ēr-mā'shun*), *n.* an avowment; the solemn declaration permitted to those who have conscientious scruples about taking an oath.

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The British Empire Dictionary

ANNOTATORY.

44

ANSERINE.

annuity, *an-nū'i-ti*, *adj.* in the nature of containing, annotations.

annuity, *an-nū'i-ti*, *adj.* See Arnotto.

announce, *an-nū'ns'*, *v.t.* to proclaim or make known, formally, or in a public manner; pronounce by judicial sentence; proclaim.

announcement, *an-nū'ns'ment*, *n.* the act of announcing; that which is announced; proclamation.

annoy, *an-noi'*, *n. pret. & p.p. -ed, p.p. -ing*, *v.t.* to vex or trouble by repeated acts; harass or discompose by petty injury or opposition; *v.i.* to be troubled. **annoyance**, *an-noi'āns*, *n.* the act of annoying; or causing vexation; the state of being annoyed; the thing or act which annoys.

annoyingly, *an-noi'ing-li*, *adv.* in a vexatious manner.

annual, *an-nū'al*, *adj.* once in twelve months; yearly; of or belonging to a year; published once a year; completed in a year; existing or living only for a year or season. **annual plant**, *n.* an anniversary mass said for a deceased person; the fee paid for such a mass.

annually, *-li*, yearly; happening, returning, completed year by year.

annuitant, *an-nū'i-tānt*, *n.* one who is in receipt of, or is entitled to receive, an annuity.

annuity, *an-nū'i-ti*, *n.* *pl.* Annuities, *-tix*, payment of a sum of money by periodical or yearly instalments.

annul, *an-nū'l*, *v.t., pret. & p.p. annulled, annulling*, to make void, abolish, or annul, as a law, decree, or compact.

annular, *an-nū-lār*, *adj.* ring-like; in the form of a ring or annulus; *n.* the ring of light surrounding the moon's body in an annular eclipse of the sun.

annulate, *an-nū-lāt*, *adj.* ringed; having ring-like bands or circles.

annulation, *an-nū-lā'shun*, *n.* a ring-like formation.

annulet, *an-nū-let*, *n.* a little ring; a small fillet encircling a column.

annulment, *an-nū'l'ment*, *n.* the act of annulling; abolition; invalidation.

annulose, *an-nū-lō'sā*, *n.* the annulose animals, as crustaceans, insects, worms.

annulose, *an-nū-lō's*, *adj.* composed of a succession of rings.

annunciate, *an-nūn'si-āt*, *v.t.* to make known officially or publicly; announce.

annunciation, *an-nūn-si-ā'shun*, *n.* the act of announcing; the Church festival (Lady-day, Mar. 25) commemorating the intimation of the Incarnation made by the angel Gabriel to the Virgin Mary (Luke i. 28-33).

annunciator, *an-nūn'shi-ā-tōr*, *n.* a signalling apparatus; an indicator used in hotels, and connected with the bells and telephones, to show in which room attendance is required.

anode, *an'ōd*, *n.* the path of the electric current from the positive to the negative pole; the positive pole.

Anodyne, *an'ō-din*, *adj.* assuaging pain; *n.* a drug which relieves pain.

Anoint, *ā-noi'nt*, *v.t.* to pour oil upon, in a religious ceremony; consecrate.

Anomalistic, *ā-nom-ā-lis'tik*, *adj.* pertaining to the anomaly or angular distance of a planet from its perihelion.

Anomalistic Year, *-yēr*, *n.* the time occupied by the earth in passing through its orbit (365d. 6hrs. 13m. 48s.).

Anomalous, *ā-nom-ā-lus*, *adj.* deviating from the common order; abnormal.

Anomaly, *ā-nom-ā-li*, *n.* deviation from the natural order; the angular distance of a planet from its perihelion.

Anon, *ā-non'*, *adv.* soon; straightway; again.

Anonym, *an'ō-nim*, *n.* a person who remains nameless; a pseudonym.

Anonymity, *an-ō-nim'i-ti*, *n.* the state of being anonymous.

Anonymous, *ā-non'-mus*, *adj.* bearing no author's name; nameless.

Anorganology, *an-ōr-gan-ol'ō-jī*, *n.* one of the two great divisions of natural science which deals with inorganic objects.

Anorthic, *an-ōr'thik*, *adj.* irregular in crystallization.

Anoemia, *an-ōs'mi-ā*, *n.* loss of the sense of smell.

Another, *ā-nūth'er*, *adj. & pron.* one more; not the same; any other; any or some one else.

Anotta, *See* Arnotto.

Anurous, *an-ō-rus*, *adj.* tailless, as the frog and toad.

Ansa, *an'sā*, *n.* *pl.* Anse, *-sē*, a handle, as of a vase; the projecting ends of Saturn's rings.

Assate, *an'sāt*, *adj.* furnished with a handle.

Anserine, *an'sēr-in*, *adj.* relating to or resembling a goose; stupid as a goose.

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The British Empire Dictionary

BOOT.

121

BOSON.

boot, *n.* profit; that which is thrown as an inducement to a bargain, or to make an exchange equal.

boot, *v.t.* to profit; advantage; avail usually with *it*.

boot, *n.* a leather covering for the foot and the lower part of the leg; an old instrument of torture; a receptacle for luggage at either end of a coach; a driving apron of leather or rubber-cloth: *v.t.* to put boots on; kick with the boot [U.S.]

boot-tré, *n.* an instrument for stretching boots.

bootee, *n.* a half-boot, or short boot, for women; a child's knitted boot.

booth, *n.* a temporary structure made of boards, canvas, &c.

bootless, *adj.* without advantage.

boots, *n.* the servant in a hotel who cleans the boots of the guests.

booty, *n.* *pl.* Booties, *-ties*, spoil taken in war; plunder; pillage.

booz, *v.t.* to drink immoderately; *n.* *triple*; *n.* liquor; drink; carouse; spree.

bo'ra, *n.* a fierce, dry N.E. wind which blows on the coasts of the Adriatic Sea.

boracic, *adj.* pertaining to, or reduced from, borax.

boracic Acid, *n.* a compound of boron with oxygen and hydrogen.

borage, *n.* a plant having medicinal properties and used occasionally in compounding claret-cup, &c.

boraks, *n.* a salt compounded of boracic acid and soda, used as a flux in soldering metals, and in the manufacture of glass, enamel, artificial gems, &c.

board, *n.* the face of coal parallel to the natural fissures.

board, *n.* planking of a ship's side; the servile tenure by which a vassal of the lowest rank held his cottage.

bordeaux, *n.* red and white wines produced in the district of Bordeaux, France.

border, *n.* the outer part or edge of anything; a margin; brink; boundary; a narrow flower bed: *v.t.* to make a border about, or to adorn with a border; *v.i.* to touch at the edge; *interj.* humbug!

border-land, *n.* land forming a border or frontier; an uncertain or debatable district.

bore, *v.t.* to pierce or drill a hole in; to force (as a passage) with effort; weary by tedious repetition, or by dullness; annoy: *v.i.* to pierce or penetrate by boring, &c.; push

forward toward a certain point: *n.* a hole made by boring; the calibre or internal diameter of a hole; a person or thing that wears by proximity or dullness; anything which causes ennui.

Bore, *n.* a tidal wave which breaks in the estuaries of some rivers, and being impeded by the narrowing channel, rises in a watery ridge and courses along with great force and noise.

Bore, *pret.* of Bear.

Borean, *adj.* northern; pertaining to the North wind.

Borecole, *n.* a variety of kale.

Boredom, *n.* ennui; the realm of bores; bores collectively.

Boride, *n.* a compound of boron with a metallic base.

Born, *born*, *adj.* innate; inherited.

Born, *pp.* of Bear, to bring forth.

Borne, *pp.* of Bear, to carry.

Bornite, *n.* a valuable ore of copper.

Boroglyceride, *n.* an antiseptic containing boric acid, glycerine, &c.

Boron, *n.* a non-metallic element occurring abundantly in borax.

Borough, *n.* a corporate town, possessing an organised municipal government, and special privileges granted by royal charter; a town having the right of Parliamentary representation.

Borough English, *adj.* a custom existing in some parts of England, by which an estate descends to the youngest son instead of the eldest, or, if there is no son, to the youngest brother.

Borrow, *v.t.* to obtain (a thing) on loan; adopt; appropriate; copy.

Bort, *n.* imperfect or inferior diamonds used for polishing other stones.

Boscage, *n.* ground covered with trees and shrubs; woods; thickets; a wooded landscape.

Bosh, *n.* absurd or empty talk; utter nonsense: *interj.* humbug!

Bosh, *n.* butterine or imitation butter.

Bosjesman, *n.* a Bushman.

Bosket, *n.* a grove; a thicket.

Bosky, *adj.* woody; bushy.

Bosom, *n.* the breast; clothing covering the breast; the affections or passions; something likened to a bosom, as a sustaining surface, inmost recess, &c.: *adj.* pertaining to the bosom; intimate; cherished; beloved; worn on the bosom: *v.t.* to place or harbour in the bosom; cherish; conceal.

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The British Empire Dictionary

CONFORMABILITY.

193

CONGRUOUS.

conformability, -fōrm-ā-bī'l-i-ti, *adj.* the quality or state of being conformable.

conformable, ('ā-bl), *adj.* like; corresponding; compliant; in parallel order.

conformation, -fōr-mā'shun, *n.* structure; arrangement; shape.

conformist, 'ist, *n.* a member of the Established Church.

conformity, 'i-ti, *n.* compliance with established forms; resemblance.

confound, kon-fōund', *v.t.* to mingle; perplex; astonish; confuse; overthrow.

conformity, -fōr-mā'shun, *n.* the act of conforming; a miscellaneous collection.

congruence, -grō-ens, *n.* agreement; consistency.

congruent, -ent, *adj.* suitable; agreeing.

congruity, 'i-ti, *n.* agreement; fitness.

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confraternity (-frā-tēr-ni-ti), *n.* [pl. confraternities (-tiz)], a brotherhood or society of men associated for a common purpose.

confrère (kōn-frār'), *n.* an associate.

confront (kon-frunt'), *v.t.* to stand face to face [with *with*]; oppose; compare.

confuse (kon-fūz'), *v.t.* to mingle; jumble up; render indistinct; disconcert; perplex.

confusion (-fū'zhun), *n.* the act of confusing; perplexity; loss of self-possession; disorder; tumult.

confutation (-fū-tā'shun), *n.* disproof.

confute (kon-fūt'), *v.t.* to prove to be false or invalid; convict of error.

congenial (-jē-niāl), *adj.* kindred; from a liquid to a solid state by cold; *v.t.* to congregate by cold.

congelation (-jē-lā'shun), *n.* the act of congealing.

congenial (-jē-niāl), *adj.* kindred; pleasant and sympathetic; cognate.

congeniality (-ni-āl-i-ti), *n.* the state or quality of being congenial.

congenital (-jen'i-tāl), *adj.* existing, or produced, at birth; constitutional.

conger (kong-gēr), *n.* a large sea-eel.

congeries (kon-jēr-i-ēs), *n. sing. & pl.* a collection of particles into one mass.

congest (kon-jest'), *v.t.* to accumulate.

congested ('ed), *p.adj.* unduly crowded; containing an unnatural accumulation of blood.

congestion (-jest'yun), *n.* an overcrowded condition, especially of the blood-vessels.

congestive ('tiv), *adj.* implying congestion.

conglomerate (-glom'ēr-āt), *v.t.* to gather into a ball or round mass;

adj. collected or clustered together. *n.* a rock composed of rounded or water-worn fragments of pre-existent rocks.

conglomeration (-ēr-ā'shun), *n.* the act of conglomerating; a miscellaneous collection.

conglutinate ('ti-nāt), *v.t.* to glue together; *adj.* glued together; united by an adhesive substance.

conglutination (-nā'shun), *n.* the act of gluing or joining together; coalescence.

conglutinative ('ti-nā-tiv), *adj.* having power to unite or heal wounds.

congratulate (kon-grat'ā-lāt), *v.t.* to felicitate on account of some happy event [with *on* or *upon*].

congratulation (-grat-ā-lā'shun), *n.* the act of congratulating.

congratulator ('ū-lā-tēr), *n.* one who congratulates.

congratulatory ('tū-ri), *adj.* expressing congratulations.

congregate (kong-grē-gāt), *v.t.* to assemble; gather together; *v.i.* to come together.

congregation (-gā'shun), *n.* an assembly, especially of persons for religious worship.

congregational (-āl), *adj.* pertaining to a congregation.

Congregationalism ('shun-āl-izm), *n.* a democratic form of church government, each congregation being self-governed.

Congregationalist (-āl-ist), *n.* an adherent to Congregationalism; *adj.* pertaining to Congregationalism.

congress (kong-gres), *n.* a conference; an assembly of ambassadors, &c., for the settlement of international affairs.

Congress (kong-gres), *n.* the national legislature of the United States.

Congressional (kon-gresh'un-āl), *adj.* pertaining to Congress.

Congressman (-mān), *n.* a member of Congress, especially of the House of Representatives.

congruence ('grō-ens), *n.* suitability; agreement; consistency. Also congruency.

congruent ('ent), *adj.* suitable; agreeing.

congruity ('i-ti), *n.* agreement; fitness.

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The British Empire Dictionary

IMPOST.

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IMPRESS MONEY.

impost, 'pɒst, *n.* that which is imposed or levied; a tax, tribute, or duty, esp. a customs-duty levied by government on imports; the top member of a pillar, on which the arch rests.

impostor, 'pɒst-ɔːr, *n.* one who imposes upon others by an assumed character or false pretensions.

impress, 'trɛs, *n.* a female impostor.

impressure, 'pɒs-tʃʊr, *n.* deception, esp. that which is practised under an assumed character or by false pretensions.

impuissance, 'pɒ-tɛns, *n.* the state of being impotent in body or mind; feebleness; want of capacity; deficiency of means to achieve an end; want of procreative or moral power, esp. in the male.

impotent, 'pɒ-tent, *adj.* wanting in physical, moral, or moral power; weak; deficient in capacity; lacking self-restraint; wanting in procreative or sexual power.

impound, 'paʊnd, *v.t.* to shut up in a pound; to confine; to hold in custody of a court.

impoverish, 'pɒv-ər-ɪʃ, *v.t.* to make poor; to reduce to poverty; cause to deteriorate in quality or productiveness.

impoverishment, -ment, *n.* the act of impoverishing; the state of being impoverished; indigence; deterioration.

impracticability, 'præk-tɪ-kə-bɪl-i-ti, *n.* the quality of being impracticable.

impracticable, 'tɪ-kə-bl, *adj.* not to be effected by the means employed, or at command; not easily dealt with; unmanageable; impossible; intractable.

impate, 'pre-kāt, *v.t.* to invoke, esp. an evil or curse upon; curse; wish evil to.

impetatory, 'pre-kā-tō-rɪ, *adj.* invoking or a curse.

impenetrability, 'preg-nā-bɪl-i-ti, *n.* the quality of being unconquerable.

impenetrable, 'nā-bl, *adj.* not to be captured, or overcome; not to be overcome, as virtue.

impenetrably, -blɪ, *adv.* so as to defy attack.

impregnate, 'preg-nāt, *v.t.* to make pregnant; fecundate; fertilize; infuse an active principle, or the particles of another substance, into; imbue; saturate.

impresario, 'prā-sā-rē-ō, *n.* the manager of an opera or concert company; one who engages singers and brings them before the public.

imscriptible, 'pre-skrɪp-tɪ-bl, *adj.* not to be written or prescribed; not to be written or lost by lapse of time; independent of external authority; inalienable; evidencing.

impress, 'pres, *v.t.* to mark, stamp, or print by pressure; to affect forcibly, or stamp deeply on, the mind; imprint; inculcate; compel to enter the public service as soldiers or sailors, esp. to carry men off forcibly to serve in the navy; seize for the public service, as money or provisions; *n.* (im'pres) a mark made by pressure; an image or figure; a mark of distinction; characteristic; stamp; an impression or image fixed in the mind.

Impressibility, 'ɪ-blɪ-ti, *n.* the quality of being impressible.

Impressible, 'ɪ-bl, *adj.* capable of being impressed; susceptible of impressions.

Impression, 'pres-un, *n.* the mark made by a stamp or mould; style or character formed by external force or influence; the mark or stamp which is the result of external force or influence; an image in the mind caused by something external to it; the immediate effect produced upon the mind by a sensation, passion, or emotion; an indistinct or vague notion, remembrance, or belief; a copy taken by pressure from type; number of copies printed at once; edition.

Impressionability, 'ɪ-blɪ-ti, *n.* the quality of being impressionable.

Impressionable, 'ɪ-bl, *adj.* capable of receiving impressions; susceptible.

Impressional, 'un-əl, *adj.* pert. to impression.

Impressionism, 'un-izm, *n.* the doctrine that natural objects should be painted—in literature, described—so as to reproduce only their larger and more immediate effect or impression, without selection or elaboration of details.

Impressionist, 'un-ɪst, *n.* one who, in art or in literature, adheres to the theory of impressionism.

Impressionistic, 'ɪ-s'tɪk, *adj.* pert. to, or characterized by, impressionism.

Impressive, 'pres-ɪv, *adj.* capable of making impression.

Impressively, -lɪ, *adv.* in an impressive, affecting, or touching manner.

Impressiveness, -nes, *n.* the quality of being impressive.

Impressment, 'pres-ment, *n.* the act of seizing for public use, or of compelling to enter the public service.

Impressor, 'ɔːr, *one who, or that which, impresses.*

Imprest, *v.t.* to advance on loan; *n.* money advanced; earnest money.

Imprest Money, 'mun-i, money advanced by the Crown for some public service, esp. money formerly paid on enlistment.

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atur, -pri-ma'tur, *n.* (L. let it be) a licence to print, granted by the authorities where there is a censorship of press; an authoritative mark of approval; sanction.

is, -pri'mis *adv.* in the first place; introducing the first of a series of particulars in an enumeration.

it, -print', *v.t.* to mark by pressure; stamp, esp. to stamp letters and words upon by means of inked types; print; press deeply on the mind or memory; *n.* (print) an impression, impress, or mark by something; the publisher's or printer's name, usually with time and place of issue, on the title-page or at the end of a book or other publication.

on, -pri'n, to put into a prison; to be in custody; restrain or confine in any way; incarcerate.

ment, -ment, *n.* state of being shut up as in, prison; confinement.

ability, -prob-a-bil'i-ti, *n.*; *pl.* Improbabilities, -ties, unlikelihood; *n.* an improbable event.

ably, -a-bl, *adj.* unlikely; not to be expected.

ably, -bl, *adv.* in an I. manner.

ation, -prö-bä'shun, *n.* in Scotch an action brought to have some instrument declared false or forged.

ity, -prob'i-ti, *n.* want of probity or honesty; dishonesty.

ptu, -promp'tu, *adv.* without preparation; offhand; extempore; *adj.* extemporaneous; thrown off on the spur of the moment; *n.* an extemporaneous speech or effort.

prop'et, *adj.* not well adapted or suited to the purpose; not according to use, usage, &c.; erroneous; unseemly.

per Fraction, frak'shun, a fraction whose numerator is equal to, or greater than, its denominator.

riate, -prö-pri-ät, *v.t.* to place, for and disbursement, ecclesiastical portions of the church in the hands of a man or lay corporation; *p. adj.* improper; devolved into the hands of a layman.

ration, -ä'shun, *n.* a benefice assigned to a layman or a lay corporation.

riator, -pri-ä-tor, *n.* a layman in possession of church property.

riety, -pri'i-ti, *n.*; *pl.* Improprities, the quality of being improper; unbleness; that which is improper in expression, &c.

able, -prööv'a-bl, *adj.* capable of being improved.

improve, -prööv', *v.t.* to make better; turn to account; intensify: *v.i.* to grow better.

improvement, -ment, *n.* advancement of anything from good to better; profitable use or application of anything; that by which the value of anything, esp. property, is advanced: *pl.* betterments [U.S.].

improver, 'ér, *n.* one who, or that which, improves; a learner at a trade; a dress-improver or bustle.

improvidence, -prov'i-dens, want of foresight or thrift.

improvident, 'i-dent, *adj.* lacking foresight or thrift; wanting care to provide for the future; careless.

improvisation, 'i-zä'shun, *n.* the act of improvising; the act of composing poetry or music extemporaneously; an impromptu.

improvisator, 'i-sä-tör, *n.* an improviser. Also Improvisatore.

improvisatrice, -vè-zä-trè'chä, *n.* a female improvisatore.

improviser, -prö-viz, *v.t.* to compose extemporaneously, esp. verse or music; bring about on a sudden, or without previous preparation; devise on the spur of the moment, or for a special occasion: *v.i.* to compose extemporaneously; do a thing in an offhand way.

imprudence, -pröö'dens, *n.* want of prudence; carelessness of consequences; inattention to one's interest.

imprudent, 'dent, *adj.* wanting prudence; not attentive to consequences or interest; indiscreet; injudicious.

impudence, 'pü-dens, *n.* want of modesty; shamelessness; rudeness; forwardness.

impudent, 'pü-dent, *adj.* shameless; impudent; offensively forward; intentionally disrespectful.

impugn, -pün', *v.t.* to attack by arguments; contradict; gainsay.

impugnable, 'nä-bl, *adj.* that may be impugned or gainsaid.

impulse, 'puls, *n.* force communicated suddenly; the result of an impelling force; a mental force directly urging to action; a sudden determination not arising from reflection.

impulsion, -pul'shun, *n.* the act of impelling; the state of being impelled; instigation.

impulsive, 'siv, *adj.* having the power of impelling; actuated by, or resulting from, impulse; passionate; acting by momentary impulse, not continuously.

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improper (-prop'ér), *adj.* not well adapted or suited to the purpose; not according to nature, usage, &c.; erroneous; unseemly.

improper fraction (frak'shun), *n.* a fraction whose numerator is equal to, or greater than, its denominator.

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impulsiveness (-nes), *n.* the quality of being impulsive.

The British Empire Dictionary

IMPUNITY.

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INBOARD.

impunity (-pūn'i-ti), *n.* freedom from punishment, injury, or loss.

impure (-pūr'), *adj.* mixed with extraneous matter; unchaste; unclean; dirty; gross; accurate or idiomatic: said of a language or style.

impudently (-li), *adv.* in an I. manner.

impurity (-nes), *n.* the quality of being impure: impurity.

impurity (-ti), *n.* *pl.* Impurities. -*tiz*, want of purity, physical or moral; that which is, or is, impure.

imputable (-pūt'ā-bl), *adj.* that may be imputed, charged, or ascribed.

imputation (-tā'shun), *n.* the act of imputing or charging; anything imputed or charged, in the way of discredit; censure; reproach; insinuation; the doctrine that the sin of Adam is attributed to his posterity, and the righteousness of Christ to the believer.

impute (-pūt'), *v.t.* to charge, attribute, or ascribe, esp. a fault; attribute (sin or righteousness) as derived from another.

imrich, *n.* a species of soup made in the Highlands of Scotland. Also *Imrich*.

in- prefix meaning in, within, inside, forming the first element of many compound words: the sense is usually self-evident, as in *inability*, *inaccessible*, &c.

inadvertence, in-ad-vĕr'tĕns, *n.* want of attention; oversight; mistake. Also *Inadvertency*.

inadvertent, -ent, *adj.* inattentive; heedless; careless; unconscious.

inapalm, -aj'ā-pām, *n.* a tall S. Amer. palm.

inalienability, -ā-lī-an-ā-bil'i-ti, *n.* the quality of being inalienable.

inalienable, -ā-bl, *adj.* that cannot, or should not, be alienated, surrendered, or transferred to another.

inalienableness, -nes, *n.* inalienability.

inalienably, -bli, *adv.* so as to be inalienable.

ināim, *n.* in India, a grant of land for religious or public uses.

inamora, -ā-mō-rā'ta, *n.* a woman with whom one is in love; sweetheart; mistress.

inamorato, -tō, *n.* a man who is in love; a lover.

inanimata, *adv.* bred from animals of the same parentage.

inane, -ān', *adj.* empty; void; senseless; frivolous: *n.* infinitesimal space.

inān'gā, *n.* a N. Zealand fish.

inanimate, in-an'i-māt, *adj.* not animate or animated; dead; spiritless; lifeless.

inanimation, -ā-nish'un, *n.* emptiness; exhaustion from lack of nourishment.

inanities, -an'i-ti, *n.* *pl.* Inanities. -*tiz*, emptiness; mental vacuity. -*frivolity*: *pl.* vanities.

inappellable, -ap-pe'l'ā-bl, *adj.* not admitting of appeal; final.

inappetence, -ap'i-tens, *n.* want of appetite; absence of desire. Also *Inappetency*.

inappreciable, prĕ'shi-ā-bl, *adj.* not to be appreciated or estimated; of no consequence.

inarr, ē'nar, *n.* a kind of tunic worn by the ancient Irish.

inarch, in-arch', *v.t.* to graft by uniting a scion to a stock without separating the scion from its parent tree.

inarticulate, *adj.* not uttered with intelligible distinctness; incapable of speech; not articulated; not jointed, segmented, or valued.

inarticulately, -li, *adv.* in an I. manner.

inarticulateness, -nes, *n.* indistinctness of utterance.

in articulo mortis, ā-rik'ū-lō mōr'tis, at the moment of death: a phrase used in connection with the execution of deeds by persons at the point of death.

inasmuch, -az-much', *adv.* in like degree, seeing that (with *as*); because.

inaugural, -ā-gū-rāl, *adj.* pert. to an inauguration: *n.* an inaugural address [U.S.].

inaugurate, -gū-rāt, *v.t.* to induct into office with appropriate ceremonies; invest with office in a formal manner; consecrate; make a formal beginning of; initiate, as a new policy; celebrate the first public use of by some opening ceremony; dedicate, as a public building.

inaugurator, -rāt-tōr, *n.* one who inaugurates, or initiates.

inauguratory, -tō-rī, *adj.* pert. to inauguration.

inauguratrix, -triks, *n.* a female who inaugurates.

in aula regis, ā'la rĕ'gis, in the king's hall or court.

inaurate, ā'rāt, *adj.* having metallic golden lustre: said of insects.

inauspicious, -spish'us, *adj.* ill-omened; unlucky; unfavourable; unfortunate.

in banco, bang'kō, on the bench; full bench.

inbeing, -be'ing, *n.* inherent existence; inherence; inseparableness.

inboard, -bōrd, *adv.* and *adj.* within the ship; not projecting over the bulwarks.

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impunity (-pūn'i-ti), *n.* freedom from punishment, injury, or loss.

impure (-pūr'), *adj.* mixed with extraneous matter; unchaste; unclean; dirty; not accurate or idiomatic: said of a language or style.

impurely (-li), *adv.* in an impure manner.

impureness (-nes), *n.* the quality of being impure; impurity.

impurity (-ti), *n.* [pl. impurities (-tiz)], uncleanness; a physical or moral blemish.

imputable (-pūt'ā-bl), *adj.* that may be imputed, charged, or ascribed.

imputation (-tā'shun), *n.* the act of imputing or charging; anything imputed or charged, especially in the way of discredit; censure; reproach; insinuation; the doctrine that the sin of Adam is attributed to his posterity, and the righteousness of Christ to the believer.

impute (-pūt'), *v.t.* to charge, attribute, or ascribe, especially a fault; attribute (sin or righteousness) as derived from another.

in, prefix meaning in, within, inside, not.

inadvertence (in-ad-vĕr'tĕns), *n.* want of attention; oversight; mistake. Also *inadvertency*.

inadvertent (-ent), *adj.* inattentive; heedless; careless; unconscious.

inalienability (-ā-lī-an-ā-bil'i-ti), *n.* the quality of being inalienable.

inalienable (-ā-bl), *adj.* that cannot, or should not, be alienated, surrendered, or transferred to another.

inalienableness (-nes), *n.* inalienability.

inalienably (-bli), *adv.* so as to be inalienable.

inamorata (-ā-mō-rā'tā), *n.* a woman with whom one is in love; sweetheart; mistress [Italian].

inamorato (-tō), *n.* a man who is in love; a lover [Italian].

inane (-ān'), *adj.* empty; void; senseless; silly; pointless; frivolous: *n.* infinite void; space.

inanimate (in-an'i-māt), *adj.* not

animate or animated; dead; spiritless; lifeless.

inanimation (-ā-nish'un), *n.* emptiness; exhaustion from lack of nourishment.

inanity (-an'i-ti), *n.* [pl. inanities (-tiz)], emptiness; mental vacuity; frivolity: *pl.* vanities.

inappreciable (-prĕ'shi-ā-bl), *adj.* not to be appreciated or estimated; of no consequence.

inarch (in-arch'), *v.t.* to graft by uniting (a scion) to a stock without separating the scion from its parent tree.

inarticulate (in-ār-tik'ū-lāt), *adj.* not uttered with intelligible distinctness; incapable of speech; not articulated; not jointed, segmented, or valued.

inarticulately (-li), *adv.* in an inarticulate manner.

inarticulateness (-nes), *n.* indistinctness of utterance.

inasmuch (-az-much'), *adv.* in a like degree; seeing that (with *as*); because.

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inboard ('bōrd), *adv.* and *adj.* within the ship; not projecting over the bulwarks.

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The British Empire Dictionary

INBOND.

419

INCHOATELY.

inbond, *adj.* a term applied to a brick laid lengthwise across a wall.
inbred, *v.t.* to breed or develop in; breed from animals closely related; breed in-and-in.
Inca, *n.* the Peruvian emperor, or a member of the royal race in Peru (which had descent from the sun) previous to Spanish conquest under Pizarro, 1531; the original Peruvian race, whose language, called Quichua, is still spoken in Sierra.
incalculable, *ku-lá-bl*, *adj.* beyond calculation.
incalculably, *-bli*, *adv.* immeasurably.
incandescence, *-kal-es-ens*, the state of glowing with heat. Also Incandescency.
incandescing, *-es-ent*, *adj.* increasing in heat.
incense, *kan-sen*, *n.* a judge's chamber; used to "in open court."
in camp, same as Encamp.
incan, *adj.* pert. to the Incans of Peru.
incandescence, *-kan-des'*, *v.t.* to cause to glow with heat; *v.i.* to glow with heat.
incandescence, *-ens*, *n.* white heat. Also Incandescency.
incandescent, *-ent*, *adj.* glowing; white heat.
Incandescent Lamp, *lamp*, *n.* a lamp in which light is produced by a thin strip of non-conducting material (carbon), heated in a vacuum, and heated to incandescence by an electric current.
incandescing, *-ka-des-ent*, *adj.* presenting a glowing appearance.
incense, *-ka-sen*, *adj.* hoary with pube-
incantation, *-kan-tá-shun*, *n.* a magical charm said or sung; enchantment.
incantatory, *-tá-tó-ri*, *adj.* dealing by enchantment; magical.
incapacitate, *-ká-pas-i-tát*, *v.t.* to deprive of faculty or natural power; render incapable or unfit; disqualify; disable.
incapacity, *-ti*, *n.* lack of power, physical or mental; legal disqualification.
incest, *kap-i-té*, by direct grant from the crown, without any intermediate feudal prior.
incarcerate, *-kar-sér-át*, *v.t.* to imprison; confine.
incarceration, *-rá-shun*, *n.* imprisonment; confinement; constriction, as of a hernia.
incarcerator, *-sér-át-ór*, *n.* one who incarcerates.
incarnate, *-kár-át*, *v.t.* to clothe with flesh; embody in flesh; *p.adj.* embodied in flesh; flesh-colored.
incarnation, *-ná-shun*, *n.* the act

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inbreed (-bréd'), *v.t.* to breed or develop within; breed from animals closely related.
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incarnate ('kár-át), *v.t.* to clothe with flesh; embody in flesh; *p.adj.* embodied in flesh; flesh-colored.
incarnation (-ná-shun), *n.* the act

of clothing with, or of assuming, flesh; embodiment in human form; a striking exemplification or personification; the assumption of human nature by the Son of God; the process by which a wound heals by being filled with new flesh.
incase, same as encase.
incautious (-kaw'shun), *adj.* wanting in caution; not circumspect; unwary.
incavo (-ká-vó), the hollowed part in an intaglio or an engraved work.
incendiarism (-sen'di-á-rizm), the act of an incendiary; burning; arson.
incendiary ('di-á-ri), *adj.* pertaining to arson or the malicious burning of property; tending to excite passion or violence; inflammatory; seditious; *n.* one guilty of arson; one who excites passion or violence; a seditious agitator.
incense (in-sens'), *v.t.* to fire; inflame with anger; provoke; irritate; (in'sens), perfume with incense; *n.* any aromatic material which exhales perfume when burned, especially oilibum, the frankincense of the Jews, and also of the ancient Greeks and Romans; any gratifying odor, as of flowers; homage; odor of spices and gums burned in religious rites.
incensive (sen'tiv), *adj.* inciting, encouraging; *n.* incitement; encouragement; motive; spur; stimulus.
inception (-sep'shun), *n.* reception; beginning; the formal qualification of a master of arts, previous to taking his degree.
inceptive (-sep'tiv), *adj.* beginning; noting beginning; *n.* an inceptive word, phrase.
incessant, *ses'ánt*, *adj.* unceasing; ceaseless; continuous.
incest ('sést), *n.* sexual commerce between persons related within the prohibited degrees of marriage.
incestuous (-ses'tú-us), *adj.* guilty of, or involving, incest.
inch (inch), *n.* 1-12th of a foot; a small quantity or degree; a critical moment; *v.t.* to drive by small degrees; deal out sparingly; *v.i.* move slowly.
inchoate ('kó-át), *adj.* just begun; incipient; elementary; incomplete.
inchoately (-li), *adv.* rudimentarily.

S E 2

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The British Empire Dictionary

INCHOATIVE.

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INCOMBUSTIBLE.

Incipiente, 'i-tiv, *adj.* incipient; rudimentary; *n.* an incipient.

Incidence, 'si-dens, *n.* the direction in which ray of light or heat falls upon a surface.

Inclined, 'si-dent, *adj.* falling upon, as a ray of light on a reflecting surface; apt to occur; appertaining; occurring accidentally; equal; subordinate; *n.* occurrence; that which happens beside the main design; quality; episode; event; accident.

Inclined, -gl, *adj.* casual; subordinate; *n.* something casual or subordinate; *pl.* minor episodes.

Inclinably, -li, *adv.* casually.

Inclinate, -sin'er-ät, *v.t.* to burn to ashes.

Inclination, -er-ä'shun, *n.* cremation.

Inclinator, 'er-ä-tör, *n.* a furnace or retort for reducing substances to ashes.

Incluse, -sip'ens, *n.* incipient state; beginning; commencement. Also **Incipency**.

Incipient, 'i-ent, *adj.* beginning to be or to appear; initial.

Incircle, same as **Encircle**.

Inced, 'süd, *p.adj.* cut; caused by cutting; engraved; notched.

Incision, -sich'un, *n.* a cut made with a sharp instrument; notch.

Incisive, -si'siv, *adj.* having the quality of cutting into; sharp; trenchant; pert. to the incisive teeth; incisorial; the incisor; the incisive edge or tooth of the mandible of a beetle.

Incisively, -li, *adv.* with incision.

Inclusiveness, -nes, *n.* the quality of being inclusive.

Incor, 'ör, *n.* a cutting tooth; one of the teeth in front of the canines in both jaws.

Incorial, -sör'i-al, *adj.* pert. to, or having the character of, an incor tooth.

Incorary, 'sör'i, *adj.* cutting.

Insite, -sit', *v.t.* to move to action; stir up; stir on; encourage; impel.

Initement, 'ment, *n.* an inciting cause; incentive; impulse; encouragement.

Inivility, -si-vil'i-ti, *n.* *pl.* Incivilities, *tit*, lack of civility or courtesy; impoliteness.

Inasp, same as **Enclasp**.

Inaudent, -kl'dent, *adj.* not closing.

Inclendency, -klem'en-si, *n.* *pl.* Inclendencies, -sis, want of clemency; severity of temper; storminess; adversity.

Inclément, 'ent, *adj.* not clement; unmerciful; tempestuous.

Inclination, -cli-nä'shun, *n.* a leaning; deviation from normal direction or position; tendency of the mind; disposition; a slope or declivity; slant; propensity.

Webster's New Illustrated Dictionary

inchoative ('ä-tiv), *adj.* incipient; rudimentary; *n.* an incipient.

incidence ('si-dens), *n.* the direction in which a ray of light or heat falls upon a surface.

incident ('si-dent), *adj.* falling upon, as a ray of light on a reflecting surface; apt to occur; appertaining; occurring accidentally; casual; subordinate; *n.* occurrence; that which happens beside the main design; causality; episode; event; accident.

incidental ('äl), *adj.* casual; subordinate; *n.* something casual or subordinate; *pl.* minor expenses.

incidentally ('li), *adv.* casually.

incinerate ('sin'er-ät), *v.t.* to burn to ashes.

incineration ('er-ä'shun), *n.* cremation.

incinerator ('er-ä-tör), *n.* a furnace or retort for reducing substances to ashes.

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incipient ('i-ent), *adj.* beginning to be or to appear; initial.

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incision ('sich'un), *n.* a cut made with a sharp instrument; notch.

incisive ('si'siv), *adj.* having the quality of cutting into; sharp; trenchant; pertaining to the incisive teeth; incisorial; *n.* the incisive edge or tooth of the mandible of a beetle.

incisively ('li), *adv.* with incision.

inclusiveness ('nes), *n.* the quality of being inclusive.

incisor ('sör), *n.* a cutting tooth; one of the teeth in front of the canines in both jaws.

incisorial ('sör'i-äl), *adj.* pertaining to, or having the character of, an incisor tooth.

incisory ('sör-i), *adj.* cutting.

incite ('sit'), *v.t.* to move to action; stir up; spur on; encourage; impel.

incitement ('ment), *n.* an inciting cause; incentive; impulse; encouragement.

incivility ('si-vil'i-ti), *n.* *pl.* incivilities ('tiz), lack of civility or courtesy; impoliteness.

inclemency ('klem'en-si), *n.* *pl.* inclemencies ('tiz), want of clemency; severity of temper; storminess; adversity.

inclement ('ent), *adj.* not clement; unmerciful; tempestuous.

inclination ('cli-nä'shun), *n.* a leaning; deviation from normal direction or position; tendency of the mind; disposition; a slope or declivity; slant; propensity.

incline ('klin'), *v.i.* to deviate from the normal direction or position; lean; bow; have a mental bent or tendency; be disposed; *v.t.* to cause to lean; direct; bow (as in reverence or civility); give a tendency to; turn; dispose; *n.* a slope; an inclined plane; gradient.

inclined ('kling'), *p.adj.* having a tendency; sloping; disposed; bent into a convex curve.

inclined plane ('plän), *n.* a plane that makes an angle with the plane of the horizon; one of the mechanical powers.

inclinator ('kli-nom'e-tör), *n.* an apparatus for determining the magnetic inclination or dip; a dipping needle; clinometer.

inclose ('klos'), *v.t.* to shut in; encompass; surround; put into an envelope (with another letter); separate from common lands by a fence.

inclosure ('zhür), *n.* the act of inclosing, or state of being inclosed, especially the act of separating land from a common by a fence; that which is inclosed; that which incloses, as a fence; something inclosed with a letter in an envelope, as a bill, check, &c.

include ('inklöd'), *v.t.* to inclose; hold as in an inclosure; confine within something; comprise or comprehend, as a genus the species.

included ('ed), *p.adj.* inclosed; contained; not projecting beyond the mouth of the corolla of a flower.

inclusion ('inklöz'zhun), *n.* the act of including; the state of being inclosed; that which is included.

inclusive ('siv), *adj.* inclosing; including; comprehending the extremes in the sum, as from Monday to Saturday inclusive, i.e., taking in both Monday and Saturday.

inclusively ('li), *adv.* so as to include.

incognito ('kog'ni-tö), *adj.* unknown or disguised; *adv.* in disguise; under an assumed name; *n.* a great personage who travels under an assumed style; the assumption of a character or title to avoid recognition; state of being unrecognized. *From* incognita.

incoherence ('kö-hir'ens), *n.* want of cohesion; looseness; want of connection; incongruity; inconsequence. *Incoherency*.

incoherent ('ent), without cohesion; incongruous; incohesive.

incohesion ('kö'zhun), *n.* want of cohesion.

incombustible ('kom-bus'ti-bl), *adj.* that cannot be consumed by fire; *n.* an incombustible substance.

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The British Empire Dictionary

INCOME. 421
income, 'kum, *n.* the gain which proceeds from labour, business, property, or capital; annual receipts of a person or corporation.
incomer, 'kum-ér, *n.* one who comes in; one who succeeds another as a tenant.
incoming, 'kum-ing, *p.adj.* coming in; accruing; *n.* the act of coming in; that which comes in; income.
incommensurability, -kom-men-sú-rá-bil'i-ti, *n.* the quality or state of being incommensurable. Also **Incommensurableness**.
incommensurable, 'sú-rá-bil, *adj.* having no common measure; having no common divisor except unity; *n.* one of two (or more) quantities that have no common measure.
incommensurate, 'rát, *adj.* not admitting of a common measure; incommensurable; not sufficient in measure; inadequate.
incommensurately, -li, *adv.* not in equal or due measure.
incommode, -kom-ód, *v.t.* to give inconvenience or trouble to; disturb.
incommodious, 'tus, *adj.* tending to incommode; troublesome; inconvenient.
incommunicable, -mú-ni-ká-bil, *adj.* that cannot be communicated or told.
comparable, -kom-pá-rá-bil, *adj.* not admitting of comparison; unequalled; transcendent; peerless.
comparableness, -nes, *n.* excellent beyond comparison.
comparably, -bil, *adv.* beyond comparison.
compatibility, -pat-i-bil'i-ti, *n.* irreconcilableness. Also **Incompatibleness**.
compatible, 'i-lá, *adj.* incapable of harmonious subsistence or combination; inconsistent; incongruous: *n.pl.* persons or things irreconcilably disagreeing with each other.
compatibly, -bil, *adv.* in an *f.* manner.
competence, -kom-pe-tens, *n.* inability, physical, intellectual, or moral; insufficiency; inadequacy; lack of qualification or jurisdiction. Also **Incompetency**.
competent, 'pe-tent, *adj.* wanting ability; inadequate; wanting qualification or fitness; incapacitated; inadmissible.
complete, 'plét, *adj.* not fully finished or developed; not having all its parts; imperfect; defective.
completely, -li, *adv.* imperfectly.
completeness, -nes, *n.* imperfection.
comprehensibility, -pre-hen'si-bil, *adj.* fathomable; not to be understood or grasped by the mind; inconceivable.
compressible, -pres'i-bil, *adj.* incapable of being reduced in volume by pressure; resisting pressure.

INCONTINENCE.
inconceivability, -kon-sév-á-bil'i-ti, *n.* the quality of being inconceivable.
inconceivable, 'á-bil, *adj.* incapable of being conceived or imagined; incredible.
inconceivably, -bil, *adv.* beyond the power of conception.
inconclusive, -kloo'siv, *adj.* leading to no conclusion in evidence or argument; unconvincing; reaching no definite result in action; ineffective; inefficient.
inconclusively, -li, *adv.* in an *f.* manner.
incondensable, -den'si-bil, *adj.* incapable of being made more dense or compact, or of being reduced to liquid form.
incongruity, -gróo'i-ti, *n.*; *pl.* **Incongruities**, -tiz, want of mutual fitness; unsuitableness of one thing to another.
incongruous, 'gróo-us, *adj.* reciprocally disagreeing; unsuited to one another; inharmonious; inappropriate.
inconna, -nú, *adj.* unknown: *n.* an unknown person. *Fr.* **Inconnue** [*Fr.*].
Inconsequence, 'se-kwens, *n.* the quality of being inconsequent; want of logical sequence; inconclusiveness.
Inconsequent, -kwent, *adj.* not following from the premises; illogical; out of proper relation; irrelevant.
Inconsiderable, -sid'é-rá-bil, *adj.* not deserving consideration; unimportant.
Inconsiderably, -bil, *adv.* very little.
Inconsiderate, -sid'é-rát, *adj.* without consideration; thoughtless.
Inconsiderately, -li, *adv.* thoughtlessly.
Inconsistency, -sis'ten-si, *n.*; *pl.* **Inconsistencies**, -siz, the quality of being inconsistent; incongruity.
Inconsistent, 'tent, *adj.* lacking coherence or agreement; discrepant; lacking uniformity; self-contradicting; incongruous.
Inconsolable, 'sú-lá-bil, *adj.* not to be consoled or comforted.
Inconsolably, -bil, *adv.* in an inconsolable manner or degree.
Inconspicuous, -spik'ú-us, *adj.* not easily perceived; so small as to escape notice; hardly discernible.
Inconstancy, 'stán-si, *n.* changeableness.
Inconstant, 'stán, *adj.* subject to change; unstable; variable; fickle; capricious.
Incontestable, -test'á-bil, *adj.* not admitting of question or dispute; incontrovertible.
Incontestably, -bil, *adv.* indisputably.
Incontinence, 'ti-nens, *n.* lack of restraint, esp. urdu indulgence of the sexual passions; licentiousness; involuntary discharge. Also **Incontinency**.

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Inconsistency (-sis'ten-si), *n.* [*pl.* **Inconsistencies** (-siz)], the quality of being inconsistent; incongruity.
Inconsistent ('tent), *adj.* lacking coherence or agreement; discrepant; lacking uniformity; self-contradicting; incongruous.
Inconsolable (-sú-lá-bil), *adj.* not to be consoled or comforted.
Inconsolably (-bil), *adv.* in an inconsolable manner or degree.
Inconspicuous (-spik'ú-us), *adj.* not easily perceived; so small as to escape notice; hardly discernible.
Inconstancy ('stán-si), *n.* changeableness.
Inconstant ('stánt), *adj.* subject to change; unstable; variable; fickle; capricious.
Incontestable (-test'á-bil), *adj.* not admitting of question or dispute; incontrovertible.
Incontestably (-bil), *adv.* indisputably.
Incontinence ('ti-nens), *n.* lack of restraint, especially undue indulgence of the sexual passions; licentiousness; involuntary discharge. Also **incontinency**.

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The British Empire Dictionary

NERVE

519

NEWFOUNDLAND.

nerve, *n.* one of the grey fibres which convey sensation from all parts of the body to the brain and originate motion; tendon; sinew; strength; manliness; the strong vein of a leaf; *v.t.* to invigorate or strengthen.

nerve, *n.* a tonic for the nerves.

nerve, *adj.* pert. to, or composed of, nerves; having weak nerves; easily agitated; vigorous in style.

nerve, *n.* the veins of leaves; the horny ribs supporting the membranous wings of an insect.

nerve, *n.* ignorance.

nerve, *n.* a headland or cape.

nest, *n.* the bed or dwelling chosen by a bird for incubation, and the rearing of its young; the place where eggs are laid and hatched; a cosy residence; a number of boxes one fitting inside another: *v.t.* to build and occupy a nest.

nest-egg, *eg.* an egg left in the nest to keep the hen from forsaking it; money forming a nucleus.

nestle, *n.* *v.t.* to lie close and snug; take shelter: *v.t.* to cherish.

nestling, *ling.* *n.* a young bird in the nest or just taken from it: *adj.* recently hatched.

nestorian, *tor'-an*, *adj.* pert. to one of a 5th cent. sect founded by Nestorius, Bishop of Constantinople, who taught that there were two natures in Christ, one human and one divine, which did not unite and form one person: also that the Virgin Mary was not the Mother of God.

net, *n.* an instrument of twine knotted into meshes for catching birds, fish, &c.; anything resembling or made like a net; a snare: *adj.* clear of all charges or deductions: opposed to Gross: *v.t.* *p.p.t.* & *p.p.* netted, *p.p.r.* netting, to make into a net or network; take with a net; snare; produce as clear profit: *v.t.* to form network.

net, *adj.* lying beneath; lower; belonging to the regions below.

net, *n.* a kind of toggle for fastening the front of a garment [Jap].

nettle, *n.* a stinging plant of the genus *Urtica*: *v.t.* to provoke or irritate.

nettles, *n.* a cutaneous eruption resembling the effects of a nettle sting.

netral, *adj.* pert. to the nerves.

neuralgia, *ral'-ji-ä*, *n.* acute pain in a nerve.

neuralgia, *adj.* pert. to neuralgia.

neurasthenia, *räs-thë-ni-ä*, *n.* brain and nerve exhaustion, as from influenza, &c.

neurasthenia, *n.* the venation of the wings of an insect; nerve distribution.

neurilemma, *ri-lem'-ä*, *n.* the fibrous sheath of a nerve.

neurine, *ri-n*, *n.* nerve matter. Also **Neurin**.

neuritis, *ri'-tis*, *n.* inflammation of a nerve.

Neuro, a prefix meaning *nerve*, as **neuro-graphy**, a treatise on the nerves.

Neuroglia, *-rog'-li-ä*, *n.* the delicate connective tissue between the nerve-fibres of the brain and spinal cord.

Neurology, *-ro'-o-ji*, *n.* a scientific description of the nerves.

Neuroma, *-ro'-mä*, *n.* a fibrous tumour occurring in a nerve trunk.

Neuropathic, *-path'-ik*, *adj.* pert. to, or suffering from, nervous disease; affecting the nerves.

Neuroptera, *-ter'-ä*, *n.* an order of insects characterised by four transparent, finely reticulated, membranous wings.

Neurosis, *-ro'-sis*, *n.* nervous disease.

Neurotic, *-ro'-ik*, *adj.* pert. to, seated in, or affecting, the nerves; characterised by a morbid hysterical style: *n.* a nerve tonic.

Neurotomy, *-o-mi*, *n.* dissection of the nerves.

Neuter, *-ür*, *adj.* of neither sex; intransitive: *n.* a flower having neither pistil nor stamens; a sterile sexless insect, esp. the working bee.

Neutral, *träl*, *adj.* unbiassed; indifferent; taking no part on either side in a contest; neither very good nor very bad; neither acid nor alkaline: said of chemical salts.

Neutrality, *-i-ti*, *n.* the state of being neutral.

Neutralise, *-i-täl-iz*, *v.t.* to make neutral; *v.t.* to render inactive.

Neutrally, *träl-i*, *adj.* in a neutral manner.

Neutral Tint, *tint*, *n.* a dull grey.

Névé, *nä-vä*, *n.* the granular compressed snow which forms glacier ice.

Never, *nev'-er*, *adv.* not at any time; in no degree.

Nevertheless, *-thë-less*, *adj.* notwithstanding; in spite of that.

New, *nä*, *adj.* recent in origin; modern; novel; lately made, produced, invented, or discovered; recently entered upon or commenced; not previously used; fresh.

[N.B.—New forms the first element in many compound words: the sense is usually self-evident, as new-fashioned, &c.]

Newel, *el*, *n.* in a winding staircase, the central upright pillar around which the steps turn.

New-fangled, *-fang-geld*, *adj.* new-fashioned.

Newfoundland, *-found'-lând*, *n.* large variety of dog, orig. from Newfoundland.

Webster's New Illustrated Dictionary

nerve (nërv), *n.* one of the grey fibres which convey sensation from all parts of the body to the brain and originate motion; tendon; sinew; strength; manliness; the strong vein of a leaf: *v.t.* to invigorate or strengthen.

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nervous ('vus), *adj.* pertaining to, or composed of, nerves; having weak nerves; easily agitated; vigorous in style.

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The British Empire Dictionary

STEAL

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STENOGRAPH

steal, *v.t.*, *pret.* stole, *p.p.* stolen, *p.pr.* stealing, to take by theft or feloniously; to leave without leave or right; withdraw or convey clandestinely; gain secretly and gradually: *v.i.* to commit theft; slip in and out unperceived.

stealth, *n.* secret means employed to accomplish an object; underhand procedure.

stealthily, *adv.* in a stealthy manner.

stealthiness, *n.* the state or quality of being stealthy.

stealthy, *adj.*, *comp.* stealthier, *superl.* stealthiest, done or performed by stealth; clandestine; sly.

steam, *n.* vapour into which water is changed when heated to boiling-point; vapour; any exhalation: *v.i.* to emit steam; rise or pass off in steam; move by steam: *v.t.* to apply steam to.

Steam, *n.* Many compound words have **Steam** as the first element: the sense is usually self-evident, as *steam-engine*, &c.

steamer, *n.* a vessel propelled by steam; and locomotive; an apparatus for steaming articles.

steaminess, *n.* the state or quality of being steamy; mistiness.

steamy, *adj.* consisting of, or like, steam.

stearate, *sté'a-rát*, *n.* any salt of stearic acid.

stearic, *sté'a-ík*, *adj.* pert. to, or obtained from stearin.

stearin, *sté'a-rin*, *n.* a constituent of most animal and some vegetable fats; tallow.

stellite, *sté-lít*, *n.* soapstone.

stod, *stód*, *n.* a horse, esp. one which is stunted.

steel, *stíel*, *n.* iron refined and combined with carbon; any instrument of steel; anything made of steel; anything of extreme hardness; a chalybeate medicine: *adj.* made of, or resembling, steel: *v.t.* to overlay, edge, or tip with steel; make and or invulnerable; render like steel.

Steel, *n.* Various compound words have **Steel** as an element: the sense is usually self-evident, as *steel-plated*, *cast-steel*, &c.

steeliness, *n.* the state or quality of being steely.

steeling, *ing*, *n.* the process of overlaying, edging, or pointing with steel; acierage.

steely, *adj.* made of, or like, steel; hard; flexible; coloured like steel.

steelyard, *sté'ýárd*, *n.* a kind of balance, consisting of a single weight moved along a graduated beam.

stening, *stén'ing*, *n.* a lining of stone, brick, &c., of a well or similar structure.

steep, *stéep*, *adj.* rising or descending with great inclination; precipitous: *n.* a precipitous place: *v.t.* to soak in a liquid; dip; imbue.

steepen, *sté'p*, *v.i.* to become steep or steeper.

steeple, *sté'pl*, *n.* a tower or turret, tapering to a point; spire.

steeple-chase, *sté'pl-çhás*, *n.* a kind of cross-country horse-race.

steepled, *pl'd*, *adj.* furnished with, like, or adorned with, a steeple.

steer, *stér*, *n.* a young male of the ox kind; bullock: *v.t.* to castrate, said of calves; to direct the course of a vessel with the helm; control; guide: *v.i.* to direct a ship in its course; move; be governed.

steerage, *sté'áj*, *n.* the act or practice of steering; that part of a ship allotted to the poorer passengers.

steerage-way, *wá*, *n.* rate of motion through the water of a vessel sufficient to enable her to feel the effect of the helm.

steers, *stér*, *v.t.* to give a certain angle of elevation to the bowsprit of a vessel.

steering, *ing*, *n.* the angle of elevation of a bowsprit with the horizon.

steganography, *steg-á-nog-rá-fí*, *n.* the art of writing in cipher; cryptography.

stegnosis, *sté'g-nó-sis*, *n.* constipation.

Steinbock, *stén'bók*, *n.* a small antelope of S. Africa. Also **Steinbock**.

stela, *sté'lá*, *n.*: *pl.* **Stelæ**, *-læ*, a small plain column without capital or base. Also **Stele**.

stellar, *sté'lár*, *adj.* pert. to stars; astral; starry. Also **Stellary**.

stellate, *sté'át*, *adj.* star-like; radiated.

stelliform, *sté'fórm*, *adj.* star-shaped.

stellular, *sté'lár*, *adj.* radiated.

stem, *stém*, *n.* the principal axis of a tree or plant; anything resembling a stem; race; pedigree; progeny; branch of a family; the forepart of a vessel; the unchangeable part of an inflected word; the upright or downright line joined to the body of a note [Mus.]: *v.t.*, *pret.* & *p.p.* stemmed, *p.pr.* stemming, to resist or check; dam up: *v.i.* to move forward against an obstacle.

stemple, *sté'pl*, *n.* a crossbar of wood in a mining-shaft for ascending and descending.

stench, *sténsh*, *n.* a strong offensive odour.

stencil, *stén'sil*, *n.* a thin plate of metal with a pattern, &c., cut out, used for marking, &c.: *v.t.*, *pret.* & *p.p.* stenciled, *p.pr.* stencilling, to mark or colour with a stencil.

sténograph, *sté'gráf*, *n.* writing in shorthand: *v.t.* to write or report in shorthand.

Webster's New Illustrated Dictionary

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sténograph (*'gráf*), *n.* writing in shorthand: *v.t.* to write or report in shorthand.

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The British Empire Dictionary

TENSOR

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TERN

al strain; strong excitement of feeling; expansive or elastic force.

ter, *n.* a muscle that stretches.

tent, *n.* a temporary shelter or habitation, usually of canvas, supported by poles or ropes; Rechabite lodge; plug or roll of lint for dilating a wound, &c.; a variety of sacramental wine.

tle, 'a-kl, *n.* a process or organ in an invertebrate animal used for prehension, or locomotion.

ular, -ak'ü-lär, *adj.* pert. to tentacles.

ulum, -ü-lum, *n.*; *pl.* Tentacula, -lä, -tacle.

tivo, 'tä-tiv, *adj.* experimental.

tively, -li, *adv.* by experiment.

ter, 'tär, *n.* a frame for stretching cloth by hooks; a tenter-hook: *v.t.* to hang stretch on tenters.

hook, -hook, *n.* a sharp, hooked anything that painfully strains.

th, *adj.* next in order after the ninth; ordinal of ten.

ty, -ü-ti, *n.* thinness; rarity.

us, 'ü-us, *adj.* slender; not dense.

ür, 'ür, *n.* conditions under which a ment is held; right or manner of hold- real estate; manner of holding.

to, tä-nööt'ü, *adj.* noting a note or as to be sustained [Mus.].

lll, të-ö-kal', *n.*; *pl.* Teocallis, -iz, a sided structure of pyramidal form, mounted by a temple, used by the ent Mexicans.

action, tep-e-fak'shun, *n.* the act of ning or making tepid.

y, 'e-ti, *v.t.*, *prep.* & *p.p.* tepified, *p.pr.* tepying., to make or become tepid.

'id, *adj.* moderately warm.

ty, të-pid'i-ti, *n.* moderate warmth.

Tepidess, *prefix* meaning three times.

h, ter'af, *n.*; *pl.* Teraphim, 'ä-fim, a lary household god or image, con- by the ancient Hebrews as an oracle.

ology, -ä-tof'ö-ji, *n.* that branch of gy which treats of malformations or ations from the normal type of animal plant structure.

same as Tierce.

'sel, *n.* the male of the falcon. Tassel.

tenary, -sen'ten-ä-ri, *adj.* comprising years: *n.* a day or function com- orating some event occurring 300 s before.

'set, *n.* a third [Mus.].

Tercine, 'sin, *n.* the outer coat of the ovule of a plant; chorion.

Terebinth, 'e-binth, *n.* the turpentine-tree.

Terebinthine, -bin'thin, *adj.* pert. to, of the nature of, or like, turpentine.

Terebratula, -brat'ü-lä, *n.*; *pl.* Terebra- tula, -lä, a genus of deep-sea, brachiopods.

Teredo, 'e-dö, *n.*; *pl.* Teredos, -dös, a genus of slender, worm-like, bivalve molluscs which bore into submerged wood, esp. the ship-worm (*T. Navalis*).

Tergant, 'gant, *adj.* in heraldry, showing the back. Also Tergiant.

Tergiversation, -giv-ër-sä'shun, *n.* evasion; subterfuge.

Tergum, 'gum, *n.* the upper surface of the abdomen of insects.

Term, term, *n.* a limit or boundary; limited time: subject or predicate of a proposition, number of a compound mathematical quantity; expression; condition or arrangement; word or expression noting something peculiar to an art or science;

time during which the law courts are open; time during which instruction is given in universities, schools, &c.; time when rent is paid [Scot.]; *pl.* conditions or stipulations: *v.t.* to name, designate, or express.

Termagant, 'mä-gant, *adj.* noisy and violent: *n.* a noisy, violent woman.

Termes, 'mex, *n.*; *pl.* Termites, -mi-tex, a genus of insects including the white ants.

Terminal, 'min-al, *adj.* pert. to the end or extremity; arranged according to the terminations: *n.* a limit or boundary; end; one of the ends of a conducting circuit of a dynamo, &c.

Terminalla, -ä-lä-a, *n. pl.* a festival held by the ancient Romans, Feb. 23, in honour of Terminus, the god of boundaries.

Terminate, 'mi-nät, *v.t.* to limit or bound; end: *v.i.* to be limited or ended.

Termination, -nä'shun, *n.* the act of terminating; a bound or limit; end; conclusion or result; final syllable or letter.

Terminator, 'mi-nä-tör, *n.* one who or that which terminates; the dividing line between the illuminated and non-illuminated part of the moon.

Terminology, -mi-nöl'ö-ji, *n.* the definition of technical terms.

Terminus, 'mi-nus, *n.*; *pl.* Termini, -ni, a limit or boundary; station at the end of a railway; the god of the ancient Romans who presided over boundaries.

Termite, 'mit, *n.* the white ant.

Tern, term, *n.* an aquatic bird allied to the gull: *adj.* three fold, consisting of three.

Webster's New Illustrated Dictionary

stretched; mental strain; strong excitement of feeling; expansive or elastic force.

tensor ('sär), *n.* a muscle that stretches.

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tepefaction (tep-e-fak'shun), *n.* the act of warming or making tepid.

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terebinth ('e-binth), *n.* the turpentine-tree.

terebinthine (-bin'thin), *adj.* pertaining to, of the nature of, or like, turpentine.

tergiversation (-jiv-ër-sä'shun), *n.* evasion; subterfuge.

term (tärn), *n.* a limit or boundary; limited time; subject or predicate of a proposition; number of a compound mathematical quantity; expression; condition or arrangement; word or expression noting something peculiar to an art or science; time during which the law courts are open; time during which instruction is given in universities, schools, &c.; time when rent is paid [Scotch]; *pl.* conditions or stipulations: *v.t.* to name, designate, or express.

termagant (tër'mä-gant), *adj.* noisy and violent: *n.* a noisy, violent woman.

terminal ('mi-näl), *adj.* pertaining to the end or extremity; arranged according to the terminations: *n.* a limit or boundary; end; one of the ends of a conducting circuit of a dynamo, &c.

terminate ('mi-nät), *v.t.* to limit or bound; end: *v.i.* to be limited or ended.

termination (-nä'shun), *n.* the act of terminating; a bound or limit: end; conclusion or result; final syllable or letter.

terminator ('mi-nä-ter), *n.* one who, or that which, terminates; the dividing line between the illuminated and non-illuminated part of the moon.

terminology (-mi-nöl'ö-ji), *n.* the definition of technical terms.

terminus ('mi-nus), *n.* [*pl.* termini (-ni)], a limit or boundary; station at the end of a railway.

termite ('mit), *n.* the white ant.

tern (tärn), *n.* an aquatic bird allied to the gull: *adj.* arranged in threes,

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The British Empire Dictionary

TERRARY.

737

TESTIMONIAL.

ternary, tēr'nā-rī, *adj.* proceeding by, or consisting of, threes: *n.* the number 3.
terpichorean, tērp-sik'ō-rē-an, *adj.* pert. to Terpsichore or to dancing.
terra, tēr'ā, *n.* the earth; earth.
terraces, tēr'ās, *n.* a raised level space or platform of earth with sloping sides, usually laid with turf; flat roof on an oriental house; large open balcony or gallery; row of houses: *v.t.* to form into a terrace.
terra cotta, kot'ā, *n.* a composition of fine clay and sand used for statues, &c., and hardened by heat; a work of art executed in terra cotta.
terra Japonica, jā-pon'e-ka, *n.* catechu.
terrapin, tēr'ā-pin, *n.* a species of fresh-water tortoise, much esteemed for food.
terraqueous, tēr'ā-kwe-us, *adj.* consisting of land and water.
terrestrial, tēr'ā-trī-āl, *adj.* pert. to, existing on, or consisting of, earth; belonging to the present world; not celestial.
terrestrially, -lī, *adv.* in a T. manner.
terret, tēr'et, *n.* one of the rings on the saddle through which the driving reins pass.
terre Verte, tār vērt, *n.* a name for two kinds of green pigments used by artists.
terrible, tēr'ī-bl, *adj.* exciting or causing fear or awe; dreadful; extreme; severe.
Terribleness, -nes, *n.* dreadfulness.
Terribly, -blī, *adv.* violently; dreadfully.
terrier, tēr'ēr, *n.* a breed of small dogs; a roll or enumeration of a landed estate, describing its acreage, boundaries, &c.
terrify, tēr'ī-fī, *v.t. & p.p.* terrified, *p.p.* terrifying, to frighten or alarm exceedingly.
territorial, tēr'ī-tō-rī-āl, *adj.* pert. to a territory; limited to a particular district.
territorially, -lī, *adv.* as regards territory.
territory, tēr'ī-tō-rī, *n.* *pl.* Territories, -rīz, the extent of land within the jurisdiction of a state, sovereign, city, &c.; large tract of land; portion of country not yet admitted as a state [U.S.].
Terror, tēr'or, *n.* extreme fear; fright; one who excites extreme fear.
Terrorism, -izm, *n.* a system of government by terror; intimidation.
Terrorist, -ist, *n.* one who governs by terror, esp. an agent of the revolutionary tribunal during the Reign of Terror in France.
terrorise, -īz, *v.t.* to intimidate or coerce by terror.
Terry, tēr'ī, *n.* a heavy corded pile fabric.
terracotta, sangk'tus, *n.* the ascription of praise "Holy, Holy, Holy," introductory to the consecration prayer in the Holy Communion office.

Terse, tērs, *adj.* elegantly or neatly concise.
Tersely, -lī, *adv.* in a terse manner.
Terseness, -nes, *n.* quality of being terse.
Tertian, tēr'shān, *adj.* occurring, or recurring, every third day: *n.* an intermittent fever the paroxysms of which recur every other day.
Tertiary, tēr'ā-rī, *adj.* of the third order, rank, or formation; pert. to a series of strata overlying the chalk: *n.* an associate of a monastic order.
Tessellate, tes'el-āt, *v.t.* to lay with squares or chequered work.
Tessera, tēr'ā, *n.* *pl.* Tesserae, -rē, a cube of marble, glass, &c., used in mosaic work.
Test, tēst, *n.* anything by which the nature of a substance is tried; examination by a cupel; standard; discrimination; proof: *v.t.* to put to the proof; compare with a standard; try; refine in a cupel; examine or try by means of a re-agent.
Testa, tēs'tā, *n.* *pl.* Testes, -tē, the outer integument or covering of a seed; shelly covering of certain animals.
Testaceous, tēs'tā-shus, *adj.* consisting of, or having, a hard shell.
Testacy, tēs'tā-sī, *n.* the state or fact of leaving a valid will.
Testament, tēs'tā-ment, *n.* a solemn, authentic instrument in writing disposing of the estate of a person deceased; will: one of the two great divisions of the Bible.
Testamentary, tēs'tā-ment-ā-rī, *adj.* pert. to, bequeathed by, or done by, a will. Also Testamental.
Testamur, tēs'tā-mēr, *n.* a certificate of merit or proficiency in passing an examination.
Testate, tēs'tāt, *adj.* having left a will.
Testator, tēs'tā-tōr, *n.* one who makes and leaves a will. *Fem.* Testatrix.
Tester, tēr'tēr, *n.* an old English coin, value 6d.; a flat canopy; one who tests.
Testes, tēs'tēs, *n. pl.* the testicles.
Testicle, tēs'tī-kl, *n.* one of the two glands which secrete the seminal fluid in males.
Testify, tēr'ī-fī, *v.i. & p.p.* testified, *p.p.* testifying, to bear witness; make a solemn declaration; give evidence: *v.t.* affirm or declare solemnly on oath; bear witness to.
Testily, tēs'tī-lī, *adv.* in a testy manner.
Testimonial, tēs'tī-mō-nī-āl, *n.* a writing or certificate bearing testimony to character, proficiency, &c.; a present given as a token of respect; acknowledgment of services rendered, &c.: *adj.* pert. to, or containing testimony.

3 11

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The British Empire Dictionary

TESTIMONY.

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THAN.

testimony, tĕs'tĭ-mō-ni, *n.* ; *pl.* Testimonies. *adj.* evidence; proof; solemn declaration; profession; the two tables of the Law; divine revelation.

testiness, tĕs'tĭ-nĕs, *n.* peevishness.

testing, tĕs'tĭng, *n.* the operation of refining gold and silver; assay; proof; trial.

testis, tĕs'tĭs, *n.* ; *pl.* Testes, tĕz, a testicle.

tetradial, tĕt'rā-dĭ-āl, *adj.* tortoise-like.

tetradinate, tĕt'rā-dĭ-nāt, *adj.* arched like a tortoise's shell.

tetradop, tĕt'rā-dōp, *n.* ; *pl.* Tetradines, tĕt'rā-dĭ-nĕz, a protective covering used by the ancient Roman soldiers in besieging a city, by overlapping their shields; an encysted armour; a genus of land tortoises.

testy, tĕs'tĭ, *adj.*, *comp.* testier, *superl.* testiest, peevish; morose; irritable.

teanus, tĕt'rā-nus, *n.* lockjaw.

techy, same as Techy.

tête-à-tête, tĕt'-ā-tĕt', *n.* private or confidential conversation; a kind of settee.

tête-de-pont, tĕt'-dĕ-pōng', *n.* ; *pl.* Tĕtes-dĕ-pōnt, -pōng', a work thrown up to defend the entrance of a bridge.

tether, tĕt'hĕr, *n.* a rope for confining an animal within certain limits; scope or freedom allowed: *v.t.* to confine, as an animal, within certain limits.

tetra, a *prefix* meaning four, as *tetra-branchiate*, *adj.* having 4 branchiae or gills.

tetrabranchiate, tĕt'rā-brāng-kĭ-ā-tĕ, *n.* *pl.* an order of Cephalopoda, having 4 gills.

tetrachord, tĕt'rā-kōrd, *n.* half of the octave scale [Mus.].

tetrad, tĕt'rād, *n.* the number 4; collection of 4 things; tetravalent radical or element.

tetragon, tĕt'rā-gōn, *n.* a plane figure with 4 sides and 4 angles.

tetragrammaton, tĕt'rā-grā-mā-ton, *n.* the mystic number 4 symbolical among the ancient Jews of the Deity.

tetrahedral, tĕt'rā-drāl, *adj.* four-sided.

tetrahedron, tĕt'rā-drōn, *n.* a solid figure bounded by 4 triangles.

tetrameter, tĕt'-trām'e-tĕr, *n.* a verse or line consisting of 4 measures.

tetramorph, tĕt'rā-mōrf, *n.* the union of the symbols of the 4 Evangelists in one figure.

tetrapla, tĕt'rā-plā, *n.* an edition of the Scriptures in 4 versions arranged in parallel columns.

tetrapod, tĕt'rā-pōd, *n.* a four-footed insect.

tetrarch, tĕt'rārk, *n.* a Roman Governor whose jurisdiction extended over the fourth part of a province; petty prince.

Tetrarchate, tĕt'rārk, *n.* the office or jurisdiction of a tetrarch. Also Tetrarchy.

Tetrastyle, tĕt'rā-stĭl, *n.* a building or portico with 4 columns in front.

Tetter, tĕt'r, *n.* a cutaneous disease characterized by itching and redness; herpes.

Teuton, tĕt'ōn, *n.* one of the German race.

Teutonic, tĕt'ōnĭk, *adj.* pert. to, or characteristic of, the Teutons or the Teutonic languages, Low German, Scandinavian, and High German.

Teutonic Knights, nits, *n.* *pl.* a religious military order founded 12th cent.

Teutonism, tĕt'ōn-izm, *n.* a Germanism.

Texas, tĕks'ās, *n.* the pilot house, &c., on the hurricane deck of a steamer [U.S.].

Text, tĕkst, *n.* that on which a comment is written; original words of an author; verse, &c., of Scripture forming the subject of a sermon; topic; theme for composition, argument, &c.; text-hand.

Text-book, tĕkst'book, *n.* a standard book of instruction.

Text-hand, hand, *n.* a large hand in writing.

Textile, tĕks'tĭl, *adj.* pert. to, or formed by, weaving; capable of being woven.

Textual, tĕt'sh-āl, *adj.* pert. to, contained in, or serving for, a text.

Texture, tĕt'sh-ūr, *n.* manner of weaving; web; disposition of the several parts of a body in connection with each other; filaments or fibres interwoven; tissue.

Thalamus, thāl'ā-mus, *n.* the place where a nerve originates or is supposed to originate; receptacle of a flower.

Thalassic, thāl-las'ĭk, *adj.* pert. to, or formed in, the sea.

Thalassography, thāl-as-ōg'rā-fĭ, *n.* the science of marine organisms.

Thaler, tĕl'ēr, *n.* a German silver coin, value about 3s.

Thalian, thāl-lĭ'an, *adj.* pert. to Thalia, the muse who presided over pastoral poetry and comedy; hence comic.

Thallium, thāl'i-um, *n.* a rare metallic element.

Thallochlore, tĕt'-klōr, *n.* the green colouring matter of lichens.

Thallogen, tĕt'-jĕn, *n.* a large class of cellular flowerless plants, containing the fungi, algae, lichens, &c.

Thalloid, tĕt'-lōid, *adj.* thallus-like.

Thallus, tĕt'sh-us, *n.* a substance of various forms composed of cellular tissue, forming the substance of thallogens.

Than, thān, *conj.* used after the comparative degree of adjectives and adverbs expressing diversity or comparison.

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THANAGE

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THEODOLITE

thane, thán'jī, *n.* the district or jurisdiction of a thane.

thanatoid, than'a-toid, *adj.* death-like.

thanatology, -ā-tol'ō-jī, *n.* a treatise on, or a doctrine of, death.

thane, thán, *n.* a title of honour or dignity among the Anglo-Saxons, held by persons having large territorial possessions.

thanship, 'ship, *n.* the dignity, state, or property of a thane.

thank, thangk, *v.t.* to express gratitude or obligation.

thankful, 'ful, *adj.* grateful.

thankfully, -ly, *adv.* gratefully.

thankless, 'les, *adj.* ungrateful; not obtaining or deserving thanks.

thanks, thangk, *n.pl.* an expression of gratitude or obligation.

thanksgiving, thangk's-giv-ing, *n.* the act of expressing gratitude for favours and mercies; a public celebration of divine goodness; a day so set apart.

Thanksgiving Day, dā, *n.* a day set apart annually, usually in November, for thanksgiving to God for national mercies [U.S.].

that, (that), *pron. & adj.* *pl.* Those, thōz, not *as* but the other: *conj.* because; since.

thatch, thach, *n.* straw, reeds, &c., used for covering the roofs of cottages, stacks, &c.: *v.t.* to cover with, or as with, thatch.

thaumatrope, thā'mā-trōp, *n.* an optical toy for showing the persistence of an impression on the eye after the luminous object is withdrawn.

thaumaturgy, -tēr'jīk, *adj.* pert. to, or effected by, thaumaturgy: *n.* legerdemain; magical feats.

thaumaturgy, 'mā-tēr-jī, *n.* the act of performing miracles; legerdemain; magic.

thaw, thā, *v.i.* to melt or become liquid, as ice or snow; become milder or more genial: *v.t.* to dissolve: *n.* the melting of ice or snow by rise of temperature.

tea, thē'a, *n.* the tea plant.

theatre, 'ā-tēr, *n.* a public building where dramatic representations are given; large hall arranged for lectures, anatomical demonstrations, &c., scene or sphere of action.

theatrical, -at'ri-kal, *adj.* pert. to, or adapted for, a theatre, or scenic representations; resembling the manner of actors; histrionic, pompous: *n.pl.* dramatic performances.

theatricality, -li, *adv.* in a manner adapted to the stage.

theatine, thē'a-trin, *n.* one of an order of Italian monks founded 16th cent.

Theatrophone, 'rō-fōn, *n.* an automatic telephone connected with a theatre by which a person may hear a dramatic performance while seated at home.

Theave, thiev, *n.* a ewe lamb of the first year.

Thebaine, thē-bā'in, *n.* a poisonous alkaloid found in opium. Also Thebin.

Theban, 'ban, *adj.* pert. to Thebes, or to its inhabitants.

Theban Year, yēr, *n.* the ancient Egyptian year consisting of 365 days, 6 hours.

Theca, 'kā, *n.* a sheath; seed-case of a fern.

Thee, thē, *pron.* objective case of Thou.

Theft, theft, *n.* the act of stealing; robbery.

Theine, 'in, *n.* the bitter and volatile principle of tea, identical with caffeine in coffee.

Theirs, thārs, *pron. pl.* possessive case of They.

Theism, thē'izm, *n.* the belief in the existence of a God: opposed to Atheism.

Theist, 'ist, *n.* one who believes in the existence of a God: opposed to Atheist.

Theistic, 'ik, *adj.* pert. to theism or theists. Also Theistical.

Them, them, *pron.* the objective case of They.

Theme, thēm, *n.* the subject or topic of a discourse or dissertation; short essay on a given subject; radical of a noun or verb; series of notes selected as the subject of a new composition [Mus.].

Then, then, *conj.* in consequence; therefore; in that case; *adv.* next; at that or another time; immediately.

Thence, thēns, *adv.* from that place & time.

Theobroma, thē-ō-brō'ma, *n.* a genus of tropical trees producing the cacao or chocolate-nut.

Theobromine, 'min, *n.* an alkaloid contained in the chocolate-nut.

Theocracy, -ok'rā-si, *n.* the government of a state by the immediate direction of God; the state thus governed.

Theocracy, 'rā-si, *n.* a mixture of the worship of different deities, as of God and idols; the intimate union of the soul with God in contemplation.

Theocrat, 'ō-krat, *n.* one living under theocracy.

Theocratic, -krat'ik, *adj.* pert. to a theocracy; administered by the immediate direction of God.

Theodicy, -od'i-si, *n.* a vindication of the dealings of divine Providence, and the freedom of the human will.

Theodolite, -od'ō-lit, *n.* an instrument for measuring horizontal and vertical angles and ascertaining distances and heights.

Webster's New Illustrated Dictionary

thanage (thān'āj), *n.* the district or jurisdiction of a thane.

thanatoid (than'a-toid), *adj.* death-like.

thanatology (-ā-tol'ō-jī), *n.* a treatise on, or the doctrine of, death.

thane (thān), *n.* a title of honor or dignity among the Anglo-Saxons, held by persons having large territorial possessions.

thanship ('ship), *n.* the dignity, state, or property of a thane.

thank (thangk), *v.t.* to express gratitude or obligation to.

thankful ('fool), *adj.* grateful.

thankfully (-li), *adv.* gratefully.

thankless ('les), *adj.* ungrateful; not obtaining or deserving thanks.

thanks (thangk), *n.pl.* an expression of gratitude or obligation.

thanksgiving (thangk's-giv-ing), *n.* the act of expressing gratitude for favors and mercies; a public celebration of divine goodness; a day so set apart.

Thanksgiving Day (dā), *n.* a day set apart annually, usually the last Thursday in November, for thanksgiving to God for national mercies.

that (that), *pron. & adj.* *pl.* those (thāz), not this but the other: *conj.* because; since.

thatch (thach), *n.* straw, reeds, &c., used for covering the roofs of cottages, stacks, &c.: *v.t.* to cover with, or as with, thatch.

thaumatrope (thaw'mā-trōp), *n.* an optical toy for showing the persistence of an impression on the eye after the luminous object is withdrawn.

thaumaturgie (-tēr'jīk), *adj.* pertaining to, or done by, thaumaturgy: *n.* legerdemain; magical feats.

thaumaturgy ('mā-tēr-jī), *n.* the act of performing miracles; legerdemain; magic.

thaw (thaw), *v.i.* to melt or become liquid, as ice or snow; become milder or more genial: *v.t.* to dissolve; *n.* the melting of ice or snow by rise of temperature.

tea (thē'a), *n.* the tea plant.

theater, theatre ('ā-tēr), *n.* a public building where dramatic representations are given; large room arranged for lectures, anatomical demonstrations, &c.; scene or sphere of action.

theatrical (-at'ri-kāl), *adj.* pertaining to, or adapted for, a theater, or scenic representations; resembling the manner of actors; histrionic, pompous: *n.pl.* dramatic performances.

theatrically (-li), *adv.* in a manner adapted for the stage.

theatrophone ('rō-fōn), *n.* an automatic telephone connected with a theater by which a person may hear a dramatic performance while seated at home.

thebaine ('bā-in), *n.* a poisonous alkaloid found in opium. Also thebin.

Theban ('bān), *adj.* pertaining to Thebes, or to its inhabitants.

Theban Year (yēr), *n.* the ancient Egyptian year consisting of 365 days, 6 hours.

theca ('kā), *n.* a sheath; seed-case of a fern.

thee (thē), *pron.* objective case of thou.

theft (theft), *n.* the act of stealing; robbery.

theine (thē'in), *n.* the bitter and volatile principle of tea, identical with caffeine in coffee.

Theirs ('thārs), *pron.pl.* possessive case of they.

theism (thē'izm), *n.* the belief in the existence of a God: opposed to atheism.

theist ('ist), *n.* one who believes in the existence of a God: opposed to atheist.

theistic ('ik), *adj.* pertaining to theism or theists. Also theistical.

them (them), *pron.* the objective case of they.

theme (thēm), *n.* the subject or topic of a discourse or dissertation; short essay on a given subject; radical of a noun or verb; series of notes selected as the subject of a new composition [Music].

then (then), *conj.* in consequence; therefore; in that case: *adv.* next; at that or another time; immediately.

thence (thēns), *adv.* from that place or time.

theobromine (thē-ō-brō'min), *n.* an alkaloid contained in cacao-beans.

theocracy (-ok'rā-si), *n.* the government of a state by the immediate direction of God; the state thus governed.

theocracy ('rā-si), *n.* a mixture of the worship of different deities, as of God and idols; the intimate union of the soul with God in contemplation.

theocrat ('ō-krat), *n.* one living under a theocracy.

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The British Empire Dictionary

THEODOLITE.

760

THEWS.

theodolite, -līt'ik, *adj.* pert. to, or ascertained by means of, the theodolite.

theogony, -og'ō-nī, *n.* that branch of mythology which treats of the origin or genealogy of ancient deities; a poem treating of such genealogies.

theologian, -ō-lō'jī-an, *n.* one versed in theology; professor of divinity; a divine.

theological, -lōj'ī-kāl, *adj.* pert. to theology.

theology, -ol'ō-jī, *n.*; *pl.* Theologies, -jīz, the science that treats of the existence, nature, and attributes of God, esp. of his relations to God; divinity.

theophany, -of'ā-nī, *n.* a manifestation of God to man by actual appearance.

thermo, -ōr-bō, *n.* a kind of large lute with two necks.

theorem, -ō-rem, *n.* a proposition to be proved.

theretical, -ō-ret'ī-kāl, *adj.* pert. to, or depending on, theory; not practical; speculative. Also Theoretic.

theretically, -lī, *adv.* in or by theory.

theoretics, 'īks, *n.pl.* the speculative part of science.

theorist, -ō-rīst, *n.* one who theorizes; speculatist.

theorize, -ō-rīz, *v.t.* to form a theory or theories; speculate.

theory, 'ō-rī, *n.*; *pl.* Theories, -rīz, an exposition of the abstract principles of a science or art considered apart from practice; hypothesis; philosophical explanation of moral or physical phenomena.

theosophic, -ō-sof'īk, *adj.* pert. to theosophy; theosophists. Also Theosophical.

theosophism, -ōs'ō-fīzm, *n.* pretension to divine wisdom or illumination.

theosophist, 'ō-fīst, *n.* a believer in theosophy. Also Theosoph.

theosophy, 'ō-fī, *n.* a system of philosophy which professes to investigate the unexplained laws of nature, the powers of man over nature, and the direct knowledge of God attained by extraordinary illumination.

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represented combined under the form of men and animals.

theriomorphic, -i-ō-mor'fīk, *adj.* having the form of an animal.

theriotomy, -i-ōt'ō-mī, *n.* the anatomy of the lower animals.

Therma, a *prefix* meaning *heat*. Also Thermo.

Thermæ, -thēr'mē, *n.pl.* hot springs or baths.

Thermal, 'māl, *adj.* pert. to heat; warm.

Thermograph, -met'ō-grāf, *n.* a self-registering thermometer.

Thermidor, 'mī-dor, *n.* the 11th month of the French Republican year, beginning the middle of July.

Thermometer, -mom'e-tēr, *n.* an instrument for measuring the degree of heat or temperature of bodies.

Thermometric, -mō-met'īk, *adj.* pert. to, made or ascertained by, a thermometer. Also Thermometrical.

Thermometrically, -āl-lī, *adv.* by means of a thermometer.

Thermopile, 'mō-pīl, *n.* an instrument for indicating slight variations of temperature.

Thermoscope, 'mō-skōp, *n.* an instrument indicating relative differences in temperature.

Thermostat, 'mō-stat, *n.* an automatic apparatus for regulating temperature.

Thermotic, -mot'īk, *adj.* pert. to, or produced by, heat; *n.pl.* the science of heat.

Thermotropism, 'rō-pīzm, *n.* the phenomena exhibited by some plants of turning towards the sun or source of heat.

Therma, -thēr'mz, *n.pl.* the intestines of animals; prepared gut [Scot.]. Also Thairms, Tharms.

Theroid, -thēr'ōid, *adj.* having animal propensities or characteristics.

Thesaurus, -the-sā'rus, *n.* a storehouse or treasury; lexicon or dictionary.

These, *pl.* of This.

Thesis, thē'sis, *n.*; *pl.* Theses, -sēz, *n.* an essay or dissertation on some particular subject; subject set a student on which to write prior to granting him a degree; the exercise itself; in Logic, an affirmation.

Thesmothe, -thes'mō-thēt, *n.* a lawgiver or legislator, esp. one of the six junior archons of ancient Athens, who annually revised the laws.

Thespian, 'pi-an, *adj.* pert. to Thespis, the founder of Greek drama: hence dramatic.

Theta, thē'tā, *n.* the Greek θ (θ).

Theurgic, -er-jīk, *adj.* pert. to theurgy or supernatural magic.

Thews, thūz, *n.pl.* muscles; strength

Webster's New Illustrated Dictionary

theodolite (-līt'ik), *adj.* pertaining to, or ascertained by means of, the theodolite.

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theosophy ('ō-fī), *n.* a system of philosophy which professes to investigate the unexplained laws of nature, the powers of man over nature, and the direct knowledge of God attained by extraordinary illumination.

therapeutic (ther-ā-pū'tik), *adj.*

curative; *n.pl.* the art or science of curing diseases.

there (thār), *adv.* in that place; at that point or stage.

therefore (thār' or thēr'fōr), *adv.* & *conj.* for that or this reason; for that reason or purpose.

therm, a *prefix* meaning *heat*. Also thermo.

thermæ (thēr'mē), *n.pl.* hot springs or baths.

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theta (thē'tā), *n.* the Greek θ (θ).

theurgie (-ēr'jīk), *adj.* pertaining to theurgy or supernatural magic.

thews (thūz), *n.pl.* muscles; strength.

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The British Empire Dictionary

THEY.

741

THORNBACK.

they, *pl.* of He, She, or It.

thick, *thick*, *adj.* not thin; compact; dense; not clear or transparent; misty; muddy; indistinct; dull; very intimate; closely set; crowded; following in quick succession: *adv.* closely; indistinctly; to a great depth; fast: *n.* the thickest part.

thicken, *thickens*, *v.t.* to make thick or thicker; render dense; inspissate; make dark or obscure; become closer or more numerous: *v.i.* to become thick or thicker.

thickening, *en-ing*, *n.* something added to a liquid or mass to make it thicker.

thicket, *et*, *n.* a close wood or cluster of trees.

thicket, *set*, *adj.* closely planted; having a thick body: *n.* a close, thick hedge.

thief, *thief*, *n.* *pl.* Thieves, *thēvs*, one who takes unlawfully what is not his own.

thieve, *thiv*, *v.t.* to steal.

thievish, *ish*, *adj.* addicted to theft; dishonest; obtained by stealing.

thigh, *thi*, *n.* the thick muscular part of the leg between the knee and the trunk.

thill, *thil*, *n.* the shaft of a cart or other vehicle; floor of a coal mine.

thiller, *er*, *n.* the shaft horse.

thimble, *thim'bl*, *n.* a cup-shaped metallic protective cover for the finger in sewing; anything like a thimble; an iron ring belonging to a sail, fitted to receive a rope.

thimble-rig, *-rig*, *n.* a sleight-of-hand trick in which a pea is pretended to be hidden under one of three thimbles: *v.t.*, *pret.* & *p.p.* *-rigged*, *p.pr.* *-rigging*, to cheat by means of the thimble-rig trick.

thin, *thin*, *adj.*, *comp.* thinner, *superl.* thinnest, having little thickness; slim; slender; not dense or thick; not close or crowded; poor; slight; meagre; not full or well grown: *adv.* not thickly: *v.t.* to make thin; attenuate: *v.i.* to grow thin.

thine, *thin*, *pron.* & *adj.* belonging to, relating to, or being the property of, thee.

thing, *thing*, *n.* whatever is distinct, or conceived to be distinct, from one's self or other intelligent beings; inanimate matter; part or portion; an object of pity and contempt: in Norway and Sweden, a judicial or legislative assembly: *pl.* clothes; furniture; luggage, &c.

think, *think*, *v.i.*, *pret.* & *p.p.* *thought*, *p.pr.* *thinking*, to have the mind occupied on some subject; form an opinion by reasoning; believe; judge; intend or purpose; imagine; recollect; consider or reflect; presume: *v.t.* to imagine.

thinkable, *'a-bl*, *adj.* conceivable.

Thinking, *'ing*, *adj.* having the faculty of thought; capable of a regular train of thought: *n.* meditation; judgment.

thinness, *thin'nes*, *n.* the state or quality of being thin.

Third, *thērd*, *adj.* the next after the second: the ordinal of three; noting one of 3 equal parts: *n.* a third part of anything; an interval of three diatonic sounds and two intervals [Mus.].

Thirlage, *thērl'aj*, *n.* the right possessed by a mill owner to compel his tenants to bring their corn to be ground at his mill.

Thirst, *thērst*, *n.* the sensation of a desire to drink; great desire for drink; drought; eager desire: *v.t.* to be thirsty.

Thirstily, *'i-li*, *adv.* in a thirsty manner.

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Thirsty, *'i*, *adj.*, *comp.* thirstier, *superl.* thirstiest, feeling thirst.

Thirteen, *thēr'tēn*, *adj.* 10 and 3: *n.* the number of 10 and 3.

Thirteenth, *'tēnth*, *adj.* next in order after the twelfth: the ordinal of thirteen.

Thirtieth, *'ti-eth*, *adj.* next in order after the twenty-ninth.

Thirty, *'ti*, *adj.* three times more than 10: *n.* the sum of three tens.

This, *this*, *pron.* & *adj.*: *pl.* These, *thēs*, that which is present; that which is just now or last mentioned.

Thistle, *this'l*, *n.* a plant with a prickly stem, and leaves of the genus *Carduus*.

Thither, *thith'ēr*, *adv.* to that place or end.

Thole, *thōl*, *n.* a pin set in the gunwale of a boat to serve as a fulcrum for the oar: *v.t.* to endure or bear [Scot.].

Thomism, *tom'izm*, *n.* the scholastic philosophy and theology of St. Thomas Aquinas, the distinguished schoolman of the 13th cent.

Thomist, *'ist*, *n.* a follower of St. Thomas Aquinas and his doctrines or philosophy.

Thong, *thōng*, *n.* a thin leather strap or string for fastening something; striking part of a whip.

Thoracic, *thō-ras'ik*, *adj.* pert. to the thorax.

Thorax, *'raks*, *n.* the chest, containing the heart, lungs &c.; breastplate or cuirass.

Thorium, *'ri-um*, *n.* a rare metallic element. Also Thorinum.

Thorn, *thān*, *n.* a prickly or spine; prickly tree or shrub; anything that troubles or annoys; care.

Thornback, *'bak*, *n.* a species of spiny ray or skate.

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thorn (*thōrn*), *n.* a prickly or spine; prickly tree or shrub; anything that troubles or annoys; care.

thornback (*'bak*), *n.* a species of spiny ray or skate.

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The British Empire Dictionary

VENOM.

774

VERNACULAR.

venom ('vəm), *n.* poison introduced into the system by a bite or sting; spite.
venomous ('vənəs), *adj.* full of venom; poisonous; malignant; spiteful.
venous ('vənəs), *adj.* pert. to, contained in, or consisting of, veins.
vent ('vent), *n.* a small opening for the escape of air, &c.; chimney-flue; outlet; rectum; utterance: *v.t.* to give an opening to.
ventilate ('vɛn-tɪ-lət), *v.t.* to open to the free passage of air; expose to free discussion.
ventilation ('vɛn-tɪ-lə'shun), *n.* the act of ventilating; state of being ventilated; free discussion.
ventilator ('vɛn-tɪ-lə-tər), *n.* a contrivance for regulating the free admission of air.
ventose ('vɛn-tɔs), *n.* the 6th month of the French Republican year (part of February and March).
ventral ('vɛn-trəl), *adj.* pert. to the belly.
ventricle ('vɛn-kl), *n.* a small cavity in an animal body.
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Webster's New Illustrated Dictionary

venom ('vəm), *n.* poison introduced into the system by a bite or sting; spite.
venomous ('vənəs), *adj.* full of venom; poisonous; malignant; spiteful.
venous ('vənəs), *adj.* pertaining to, contained in, or consisting of, veins.
vent ('vent), *n.* a small opening for the escape of air, &c.; chimney-flue; outlet; rectum; utterance: *v.t.* to give an opening to.
ventilate ('vɛn-tɪ-lət), *v.t.* to open to the free passage of air; expose to free discussion.
ventilation ('vɛn-tɪ-lə'shun), *n.* the act of ventilating; state of being ventilated; free discussion.
ventilator ('vɛn-tɪ-lə-tər), *n.* a contrivance for regulating the free admission of air.
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Identical matter has been printed in red to show how much has been appropriated from the British Empire Dictionary

District Court of the United States,

SOUTHERN DISTRICT OF NEW YORK.

G. & C. MERRIAM COMPANY, a corporation,

Complainant,

vs.

SYNDICATE PUBLISHING COMPANY,
a corporation,

Defendant.

ANSWER OF DEFENDANT TO BILL AS AMENDED.

The answer of Syndicate Publishing Company to the bill of complaint of G. & C. Merriam Company, Complainant.

This defendant now and at all times hereafter saving and reserving unto itself all benefit and advantage of exception which can or may be had or taken to the many uncertainties and other imperfections in said complainant's bill of complaint contained, for answer thereto or unto so much and such parts thereof as it is advised is or are material or necessary for it to make answer unto, answers as follows:

The defendant admits that Noah Webster was the author of numerous books upon various subjects, including several dictionaries of the English language published at different dates, and that he caused to appear upon such dictionaries as he published as a part of the title thereof his

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own surname "Webster," but it denies that said word "Webster" was used on any dictionaries of which said Noah Webster was the author in any other sense than to indicate that he was the author and compiler of the contents of said dictionaries, and the proprietor and owner of copyrights duly obtained by him under the then existing Acts of Congress of the United States by which the literary property therein was protected, some of which copyrights expired prior to the decease of said Webster and all of which expired long before the alleged commission by this defendant of the acts in said bill of complaint complained of, by which expiration of copyrights the literary property in all of said dictionaries became free and ever afterwards open to unrestricted use by the public along with the right to use the name "Webster" thereon on the reprints, revisions and new editions thereof, as well as on a similar dictionary or dictionaries containing in whole or in any part the literary matter or contents of the dictionaries of which said Noah Webster was the author or compiler, and this defendant denies that the right to use the name "Webster" became at any time or is now a property right valuable or otherwise.

3808

Said defendant admits the decease of Noah Webster in or about the year 1843, but is informed only by said bill of complaint that at the time of his death he had in course of preparation a new and revised edition of the previous edition of dictionaries which had been prepared and published by him and therefore neither admits nor denies said allegations as contained in said bill of complaint.

Defendant admits that complainant is a corporation organized under the laws of the Com-

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monwealth of Massachusetts with its usual place of business in Springfield, Massachusetts, and admits that the immediate predecessor of said corporation was the firm of G. & C. Merriam & Company and that the immediate predecessor of said last named firm was the firm of G. & C. Merriam.

Defendant also admits that it is a corporation organized and existing under the laws of the State of New York with its usual place of business in the Borough of Manhattan in the City of New York and said State of New York. 3810

Defendant does not know and therefore neither admits nor denies that G. & C. Merriam, predecessors of complainant, acquired by purchase and assignment from the executors, heirs-at-law, and next of kin, and the widow and children of said Noah Webster, deceased, all the right, title and interest which they had in the dictionaries which he had prepared or published, but defendant on information and belief denies that said G. & C. Merriam acquired by purchase and assignment or in any manner from said parties what is called in said bill of complaint, "the good will and trade name thereof." 3811

Defendant does not know and is not informed except by said bill of complaint that said firm of G. & C. Merriam completed an edition of Webster's dictionaries alleged to have been left unfinished by Noah Webster at his death, or that they employed for such purpose William G. Webster, Chauncey A. Goodrich and numerous editors and literary men and it leaves complainant to make such proof thereof as it shall be advised is material. 3812

Defendant admits that at intervals during the period from 1847 to the date of the filing of this

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bill of complaint, the complainant or some one of its predecessors has published various dictionaries of the English language either unabridged or condensed or in various styles and forms and that as a part of the name or title of each of said dictionaries, either in the copyright title, or otherwise, the complainant or one of its predecessors, has used the name "Webster," but defendant does not know and therefore neither admits nor denies the publication of the specified dictionaries referred to by the complainant in its bill of complaint nor does it admit or deny the respective title, copyright or otherwise of each of said dictionaries so described and referred to and it leaves complainant to make such proof regarding said dictionaries as it shall find itself able to and as it shall be advised is material.

3815

Defendant denies that the various titles of different dictionaries alleged to have been used by complainant or one of its predecessors in various dictionaries published by it or them were in fact adopted by complainant or either one of its predecessors as its or their own special trade name for each of said dictionaries respectively.

3816

Defendant admits that the great renown of Noah Webster as the originator and author of dictionaries published during his lifetime and bearing his name, in their title, and the great learning and care bestowed by him on the preparation of the same had great influence on editions of said dictionaries published after his decease, but on information and belief defendant denies that by reason thereof and by reason of the learning, skill and care of the editors and assistants in preparing and editing and placing upon the market later editions of dictionaries bearing his

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3817

name in their title, and by reason of the skill and care exercised by complainant or either one of its predecessors in preparing, printing, proof reading, binding, publishing and advertising said later dictionaries it became well known and understood in the trade and by all book sellers, dealers, in and users of dictionaries and by the public in general that all dictionaries bearing the title "Webster's Dictionary" either alone or in combination with other words were in fact and in all cases dictionaries prepared, printed and published by the complainant or any one of its predecessors and by none other.

3818

The defendant also denies that the said title, "Webster's Dictionary" either with or without such other words became a guarantee of the accuracy of any dictionary bearing such title, or a guarantee that the same had been prepared by complainant or either one of its predecessors and their respective editors and assistants and none other, or a guarantee of the correctness of any one of said books as a dictionary of the English language and likewise denies that any one of said dictionaries so published after Noah Webster's death was known by all people desiring to purchase and use a dictionary as a book published by complainant or any one of its predecessors and by none other.

3819

Defendant is not informed and therefore neither admits nor denies that complainant or some of its predecessors acquired by purchase and assignment prior to 1864 from various publishers all their rights, title and interest in dictionaries theretofore published and sold under names of which the word Webster formed a part and it leaves complainant to its proof of said facts

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Answer.

if deemed material, and defendant denies that from any of said parties there was purchased by complainant or any one of its predecessors the "good will and trade name" of any one of said dictionaries.

3822

Defendant denies that upon the publication by complainant or any one of its predecessors of successive editions of its or their dictionaries the prior edition of said dictionary was substantially withdrawn from the market and that thereafter the latest edition of said dictionary alone was known among the trade and by purchasers and users as "Webster's Dictionary" and denies that all previous editions of said dictionaries were supplanted and made obsolete by said successive new editions and denies that thereafter no copies of said earlier editions were printed or sold by complainant or its predecessors and denies that with the exception of the filling of special orders for particular editions no copies of earlier editions could be purchased except as second hand books.

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But defendant says the complainant's predecessors and complainant itself have continued to publish and sell in large quantities to the trade and the public copies of some at least of its prior editions of dictionaries after the publication of its "successive" editions and complainant has continued such publication and sales to the present time and was so publishing and selling the same at the date of the filing of its bill herein, and that such copies of prior editions have borne and still bear upon their covers the registered trade marks of the complainant and upon the backs of their title pages notices of successive copyrights of such dictionaries entered either by the complainant or its predecessors.

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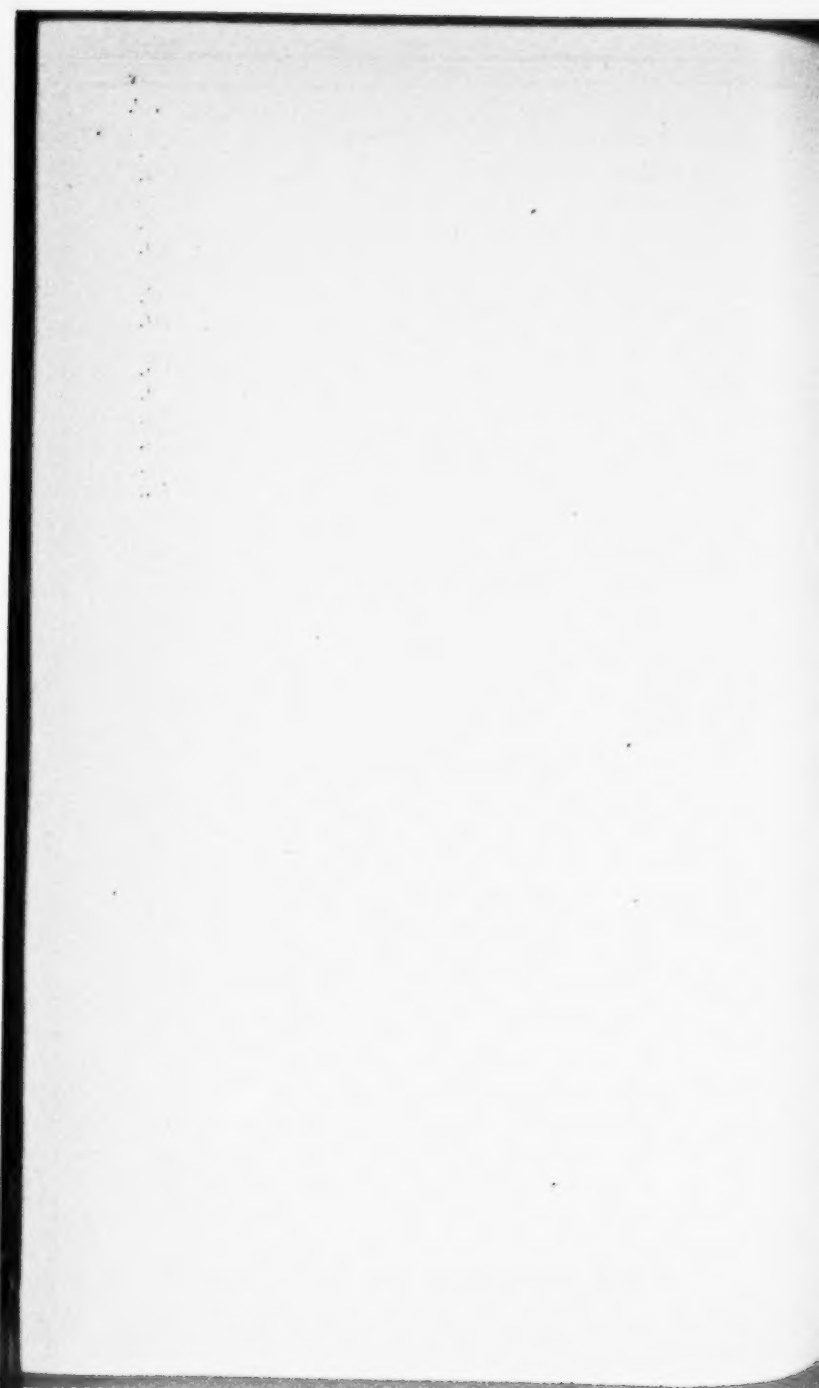
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Answer.

3825

Further answering the defendant says that it has, before the institution of this suit, offered for sale and sold dictionaries with the title "Webster's New Standard Dictionary," which title is named in the bill of complaint. Defendant admits that said dictionary styled "Webster's New Standard Dictionary" is not the product, either literary or mechanical, of the complainant or of any one of its predecessors or of its corps of editors, authors or compilers, and that said dictionary is not one of the series of abridged or unabridged dictionaries of the complainant.

3826

Defendant further admits that Noah Webster is not the author of said dictionary and that said dictionary is not a copy or exact reproduction of any dictionary which has borne the name "Webster" in its title except that prior to the adoption and use by the defendant of said title "Webster's New Standard Dictionary" defendant had published the same dictionary with the title "Webster's New Illustrated Dictionary."

3827

Defendant admits that said dictionary "Webster's New Standard Dictionary" is not an exact copy or reproduction of any dictionary now or heretofore published by the complainant, but defendant denies that the designating title of said dictionary "Webster's New Standard Dictionary" is false and deceptive and alleges the fact to be that said dictionary is a revision of "Webster's Unabridged Dictionary," the copyright of which was issued in the year 1847 and which expired after the statutory renewal thereof in the year 1889, by virtue of which expiration of copyright there passed to the public the right to publish the copyrighted book or a revised edition thereof, together with the right to use the name or title

3828

Answer.

3829

thereof, including the name "Webster" as the name or title of such dictionary or revision.

3830

Defendant denies that it has published said dictionary in manner and form or in imitation of any one of complainant's dictionaries, or has printed and bound copies thereof for the purpose of making them resemble any one of the dictionaries published by complainant, but says that it has printed and bound said dictionaries in the form usually employed by all publishers of dictionaries of the general style and type of said dictionary, and that it has used only proper words and characters and those which it had a right to use upon the title pages and front covers and backs of copies of said dictionary, entitled "Webster's New Standard Dictionary."

3831

Defendant says that it heretofore acquired from Dr. Louis Klopsch the plates and copyright of and all rights held by him in and to a dictionary copyrighted in 1904 by said Klopsch under the title "The Crown Dictionary of the English Language, based upon the Unabridged Dictionary of Noah Webster, LL. D.," etc., etc.; that thereafter said dictionary was copyrighted under the style "Webster's New Illustrated Dictionary of the English Language, based upon the Unabridged Dictionary of Noah Webster, LL. D.," and was published by the defendant under

3832

the title on the cover of "Webster's New Illustrated Dictionary"; that thereafter said dictionary was published under the same title with the addition upon the cover thereof of the words, "With New United States Census"; that thereafter said dictionary was copyrighted under the title "Webster's New Standard Dictionary, Illustrated, based upon the Unabridged Dictionary

Answer.

3833

of the English Language of Noah Webster, LL. D.,” etc., etc., and was published with the name on the back and front of cover, “Webster’s New Standard Dictionary, Illustrated, with New United States Census,” and that thereafter said dictionary was copyrighted under the title “Webster’s New Illustrated Dictionary, with United States Census and Maps, based upon the Unabridged Dictionary of Noah Webster, LL. D.,” etc., etc., and was published with corresponding title upon the front and back of cover thereof and that at the time of the filing of the bill of complaint herein the dictionary was being published and sold by the defendant with the last named copyright title on the title page and back thereof, and not with the title “Webster’s New Standard Dictionary,” as stated in the bill of complaint.

3834

Defendant denies that in the publication of said dictionary offered under the title of “Webster’s New Standard Dictionary” or “Webster’s New Illustrated Dictionary,” it omitted from the copyright notices thereon the notice showing copyright in the year 1904 in order, as stated in the bill of complaint, to make it appear that said dictionary was a new production, or that it substituted, in lieu of such copyright notice in 1904, a copyright notice bearing the date 1911, and denies that either the purpose or the effect of this change was to conceal the true origin and identity of said dictionary or to lead purchasers and the public in general to buy said dictionary in the belief that it is a new dictionary, first published in the year 1911, and that it is one of the complainant’s series of Webster’s Dictionaries, but defendant says that, on the contrary, it is

3835

3836

Answer.

3837

not uncommon to omit from published books some of the copyrights which may have been issued thereon and to substitute only the later ones issued, and that the reason in this instance for the omission of the copyright notice of the year 1904 was and is that prior to the transfer of said copyright plates, etc., of said dictionary of said Klopach to the defendant, as hereinbefore recited,

3838

said Klopach had attempted to grant, and claimed to have granted, certain restricted rights in said copyrights and plates to a party other than this defendant, and that this defendant purchased and took over the same, subject to such possible rights as said third party then might have in said copyright and plates; that said third party has issued an edition of said "Crown Dictionary" under its alleged rights derived from said Klopach, and this defendant therefore omitted notice of the copyright of 1904, rights in which said third party claimed to possess as aforesaid, because it did not wish to publish and advertise a copyright claimed by a competitor.

3839

That in the publication and sale of its dictionary, whether under the title of "Webster's New Illustrated Dictionary" or "Webster's New Standard Dictionary," this defendant has at no time sought to conceal its identity and origin or to lead purchasers and the public in general to buy it in the belief that it was a dictionary or a reprint of a dictionary at any time published by this complainant or its predecessors, but on the contrary it has at all times indicated on title pages and in advertisements the true origin and identity of said dictionary and that, in pursuit of its purpose to thus distinguish said dictionary from any dictionary published by this complainant, this

3840

Answer.

defendant before the institution of this suit against it by the Harrison Company, caused to be inserted on the title page of said dictionary the following language, to wit:

"This dictionary has been revised and brought up to the present date in accordance with the best authorities and is now published by the original publishers of 'Webster's Dictionary' or by their successors."

And at the institution of this suit all the dictionaries, bearing the title as then adopted of "Webster's New Illustrated Dictionary," which were being issued by the defendant have the inscription above recited and also have upon their title pages the words "Based upon the Unabridged Dictionary of Noah Webster, LL. D., revised and edited under the direction of Edward T. San, LL. D. and Charles Lammot Smith, B. A." and also have upon the title page the publisher's notice "Published by the Syndicate Publishing Company, New York, 1911" and at the bottom of the back of cover the name "Syndicate Publishing Company."

Defendant says that its dictionaries bearing the title "Webster's New Illustrated Dictionary" or "Webster's New Standard Dictionary" have been and are being advertised, but it denies that its said advertisements have any of them been false, misleading or misleading or have tended in any way to deceive the public or to pass off said dictionaries as and for the dictionaries of the complainant.

And further answering defendant denies that the name "Webster's" is or ever was or, as a matter of law, could be the "trade mark" of com-

3845

Answer.

plainant as alleged in its amendment to its bill of complaint and further denies that complainant ever adopted said name as a trade-mark as therein alleged.

3846

Defendant does not know and therefore neither admits nor denies that at sundry dates heretofore complainant has registered in the Patent Office of the United States certain alleged trade-marks which it describes in its said amendment as consisting of the "Word 'Webster's' in combination and association with other words and features" and it leaves complainant to attempt to prove the same or not as it may be advised. But defendant denies that, if such registrations have been made and if the same constitute valid trade-marks of the complainant, it, the defendant, has in any manner infringed, copied or imitated said alleged trade-marks and denies that such combination of the word "Webster's" with other words and features has made the word itself a trade-mark.

3847

Further answering defendant says that complainant sets forth and alleges in its bills of complaint no ground of action for which it is entitled to look to the defendant for damages and to ask that the defendant be required by this Court to compensate him and that defendant has not infringed or trespassed upon any right of the complainant in its publication of dictionaries or the use of the name "Webster" in connection therewith.

3848

Defendant denies that the complainant has any exclusive right to the use of the name "Webster" in the titles of dictionaries which entitles it to an injunction as asked for against this defendant, restraining the defendant from using the word

Answer.

3849

"Webster" "in connection with the publication and sale of its said dictionaries as the name of or as descriptive of such dictionaries" and denies that the defendant has any right to ask for an injunction as prayed for in its bill, restraining the defendant from "offering for sale its said dictionaries under the name or title of "Webster's New Standard Dictionary" and submits that it has the right to use the name "Webster" as a part of the title of its dictionary so long as it distinguishes such dictionary from dictionaries published by the complainant which it alleges it has done heretofore and is now doing.

3850

Answers to interrogatories.

Answering the interrogatories attached to the bill of complaint, defendant says to the first,

1. "Yes."

3851

To the second interrogatory the answer is,

2. "On advice of counsel we decline to state how many of said dictionaries have been sold by the defendant or how many it now has on hand as the information sought, if now furnished, will not aid in the determination and is not pertinent to the issues raised by the bill of complaint and should therefore not how be supplied."

3852

This defendant prays the same advantage of this its answer as if it had pleaded or demurred to the bill of complaint and prays leave and asks

3853

Answer.

to be dismissed with its reasonable costs and charges in this behalf most wrongfully sustained.

SYNDICATE PUBLISHING COMPANY,
Defendant.

GEORGE F. BEAN.

STRONG & CADWALADER.

3854 . Solicitors & of Counsel for Defendant.

(Endorsed) U. S. Circuit Court, Southern District N. Y.

Filed Dec. 30, 1911, John A. Shields, Clerk.

3855

DISTRICT COURT OF THE UNITED
STATES,

4001

SOUTHERN DISTRICT OF NEW YORK.

G. & C. MERRIAM COMPANY,
Complainant,

AGAINST

CUPPLES & LEON COMPANY,
Defendant.

Equity 8-161.

4002

G. & C. MERRIAM COMPANY,
Complainant,

AGAINST

SYNDICATE PUBLISHING COM-
PANY,
Defendant.

Equity 8-162.

4003

TESTIMONY taken by and on behalf of
the defendants for final hearing, pur-
suant to the annexed notice by agreement
of Counsel, under the 67th Rule in Equity,
as amended, and in accordance with the
Statute in such cases made and provided,
and pursuant to the rules and practices
of this Court, before John A. Shields, Esq.,
a Standing Examiner of this Court, at the
offices of Messrs. Gould & Wilkie, 2 Wall
Street, in the Borough of Manhattan,
City of New York, beginning on the 26th
day of April, 1912 at 11:00 o'clock in the
forenoon.

4004

4005

Max Hesslein—Direct

APPEARANCES:

The Examiner

WILLIAM B. HALE, Esq.,
For Complainant.

LAUREN CARROLL, Esq.,

Of Counsel for Defendant Syndicate Publish-
ing Company and for Defendant Cupples & Leon
4006 Co.

MAX HESSLEIN, a witness called by and on behalf of the defendants, having been duly cautioned and sworn, testified as follows:

DIRECT EXAMINATION by Mr. Carroll:

4007

Q. 1. Please state your name, age, residence and occupation? A. Max Hesslein; age, 45; residence, Newark, New Jersey; occupation, buyer of books and stationery for Hahne & Company, Newark, N. J.; O'Neill Adams Company, New York; Stewart & Company, Baltimore.

Q. 2. How many years have you been in the book business? A. Twenty-seven years.

Q. 3. Have you handled dictionaries? A. I have.

4008

Q. 4. Very largely? A. Yes.

Q. 5. Among other dictionaries have you handled many Webster's dictionaries? A. Yes, a great many.

Q. 6. When you hear a Webster's dictionary spoken of do you connect it with any one publisher? A. Decidedly not.

Max Hesslein—Direct.

4009

Q. 7. From your experience in the book business can you say whether or not the ordinary purchaser of Webster's dictionaries associates them with any one particular publisher? A. No, they do not.

Q. 8. What does the ordinary customer ask for? A. The majority of customers will ask for a dictionary. Then the clerks will show them several dictionaries. At times it is Webster's other times it is Funk & Wagnall's; and we show them other dictionaries.

4010

Q. 9. Suppose a customer comes in and asks for a Webster's dictionary, would you know what book he meant? A. No, we would not. Because there are too many different kinds of Webster's dictionaries.

Q. 10. What would you say to such a customer or ask him? A. Well, we generally show them the dictionaries, and they would say, "I want a handy dictionary; I want a vest pocket dictionary or I want some kind of a dictionary of that kind;" whatever they may want. There have been times when we have shown the large Webster's Unabridged Dictionary and they ask us if the same is the complete dictionary. Some people have been misled in their belief when they buy these Webster's Unabridged dictionaries that they are buying the up-to-date Webster's Dictionary.

4011

Q. 11. What book are you talking about when you speak of Webster's Unabridged Dictionary? A. A reprint dictionary of the 1864 edition.

4012

Q. 12. Who is this book published by? A. Some we purchase from George M. Hill & Company, various publishers, and the Merriam Company and G. S. Ogilvie.

Q. 13. Have you one of these dictionaries with you? A. Yes.

4013

Max Hesslein—Direct.

(Witness produces.)

MR. CARROLL: I offer the book in evidence. Marked Defendant's Exhibit No. 1, JAS Exr."

Q. 14. Who published this Defendant's Exhibit No. 1? A. The Merriam Company.

Q. 15. Where did you get it from? A. Through Reilly & Britton, Chicago.

4014

Q. 16. Do you know where they bought it? A. Well, I believe they bought it from the Merriam Company.

Q. 17. What makes you think they bought it from the Merriam Company? A. I always understood that they were the agents of the Merriam Company.

Q. 18. Are many of these books sold in the trade? A. Well, I would not say—quite a good many, I guess.

4015

Q. 19. How long have you known of this book? A. Do you mean the Merriam book?

Q. 20. Yes. A. I think the last fifteen or seventeen years.

Q. 21. You said before that people were misled by books of this kind; why? A. Because they believe they are buying an edition which is up-to-date; what the title page indicates.

4016

Q. 22. How does it indicate it is up to date? A. By the copyright on the back of the book. That is speaking as far as the bookseller knows it; but the customer only sees the year which is marked on the title page, and believes that that is a dictionary up-to-date.

Q. 23. What is the date on the title page on that book? A. 1906.

Q. 24. Isn't it a 1906 book? A. Well, no, I would say not.

Max Hesslein—Direct.

4017

Q. 25. Is it substantially the same book that was originally published in 1864? A. It is, the main portion of it, of the original book published in 1864.

Q. 26. Do you know whether this book was published from the same plates as the 1864?

No answer.

Q. 27. Do you know? A. Well, I understood so, yes.

4018

Q. 28. Is it commonly so understood in the trade?

MR. HALE: Objected to as incompetent.

A. Yes, in the trade it is understood it is the reprint of 1864.

Q. 29. What does the ordinary purchaser of a dictionary expect to use the book for? A. For the spelling.

4019

Q. 30. You don't mean that the purchaser of the large unabridged dictionary of the high price expects to use it solely for spelling, do you?

MR. HALE: Objected to as leading.

A. In the majority of cases.

Q. 31. What does the ordinary purchaser of any book think about, the contents or the publisher?

MR. HALE: Objected to as leading.

4020

A. The contents.

Q. 32. Has it been your experience that the ordinary purchaser of any book knows or cares anything about the publisher? A. You are speaking about any book?

Q. 33. Yes. A. They do not.

4021

Max Hesslein—Direct.

Q. 34. Are purchasers of abridged Webster's dictionaries any exception to this rule? A. No, sir.

Q. 35. What does the ordinary purchaser of an abridged Webster's dictionary expect to get? A. An up-to-date dictionary.

4022

Q. 36. What does the name "Webster" in the title of the dictionary mean to him? A. Nothing beyond that the name of "Webster" being associated with the dictionary.

Q. 37. Does he regard the name "Webster" as an artificial or arbitrary name?

MR. HALE: Objected to as leading, which is especially objectionable in a line of examination calling for opinion or expert evidence and results in putting counsel's words and opinions into the record instead of those of the witness.

4023

A. I don't understand the question.

Q. 38. Do they connect the name "Webster" with any particular person as connected with the origin of the book, or do they consider it as a title, like the title of a novel? A. No, they do not.

Q. 39. What do they do? A. They simply connect the name Webster with the dictionary.

4024

Q. 40. Do you mean that the name "Webster" is practically synonymous with the word "dictionary?" A. No, I would not say that.

Q. 41. What does that mean then? A. Only to the people who may come in and have in their mind in specifying the Webster's dictionary.

Q. 42. What different Webster's dictionaries have you dealt in or known of? A. Webster's Peabody Dictionary, published by Hurst & Company.

Max Hesslein—Direct.

4025

Q. 43. When did you first know that book? A. Over twenty years ago.

Q. 44. Did you know of it before 1889? A. I think I did.

Q. 45. Will you give a list of Webster's dictionaries of which you have known with their publisher? A. Webster's New Standard Dictionary of the English Language for Grammar and Common School Grades, published by Laird & Lee; Webster's Universal Self Pronouncing Dictionary by Winston & Company; Webster's Home School and Office Dictionary, Barse & Hopkins; Webster's New Century Dictionary, Cupples & Leon; Webster's Reliable Dictionary, Arthur Saalfield; Webster's New Standard Dictionary, Syndicate Publishing Company; Webster's Concise Dictionary, A. L. Burt; Webster's Pictorial Dictionary, Popular Publishing Company; Webster's Pronouncing Dictionary by Neely & Company; Webster's School and Office Dictionary by Thompson & Thomas; Webster's Unabridged Dictionary, George M. Hill & Company; Webster's People's Dictionary by Laird & Lee; Webster's School Dictionary, published by Donohue.

4026

4027

Q. 46. Have most of these books been advertised. A. Yes.

Q. 47. Can you name some of the forms of advertising that the publishers of these books or dealers in them have used?

4028

MR. HALE: Objected to, on the ground that the advertisements themselves should be produced.

A. In the trade papers; in the others, in the newspapers.

4029

Max Hesslein—Direct.

Q. 48. Do these publishers send out catalogues?
A. Yes.

Q. 49. And in these catalogues do they devote space to their dictionary? A. They do.

Q. 50. What methods of advertising are pursued by retail dealers in these books? A. Mostly by newspaper advertising.

4030

Q. 51. Could you give any estimate at all of the amount of money that has been spent in advertising these books which you have mentioned?

MR. HALE: Objected to as incompetent, and calling for a mere guess as to a matter of fact, upon which the witness is not shown to have any information.

A. I cannot.

4031

Q. 52. You have been in very close touch with the various advertisements and methods of advertising which have been used by these publishers, and also by the G. & C. Merriam Company?

A. I have.

Q. 53. How far back does your knowledge of this advertising go? A. Since 1890.

4032

Q. 54. You have stated that you could not give any estimate at all as to the cost of this advertising; can you state with reasonable certainty the relative amount of advertising that has been done since 1890 by the G. & C. Merriam Company and by other publishers and dealers? A. I cannot, with the exception that I believe I have seen more advertising from others than from the Merriam Company in that time.

Q. 55. Have you seen most of the advertising of Webster's dictionaries which has appeared since 1890?

Max Hesslein—Cross.

4033

MR. HALE: Objected to as calling for something which the witness obviously cannot know.

A. I have not.

Q. 56. Of the advertising which you have seen, was more of it devoted to the G. & C. Merriam books or the Webster's dictionaries published by other publishers? A. More by other publishers.

4034

DIRECT EXAMINATION CLOSED.

CROSS EXAMINATION by Mr. Hale:

x Q. 57. In speaking of the relative amount of advertising, did you have in mind the expensive newspaper advertising of a dictionary in connection with a coupon scheme within the last year or year and a half? A. No, sir; I have taken it all from the trade papers and the newspapers; of various dictionaries.

4035

x Q. 58. You gave a list of various dictionaries using the name "Webster"; when did you prepare that list? A. Oh, about within a week.

x Q. 59. From what source did you make it? A. From the record of my actual purchases and some from the trade papers.

Q. 60. You did not actually make it from the books themselves? A. Well, I give the list of the books I really know.

4036

Q. 61. You did not have all the books named by you present before you at any one time in making this list? A. Some of them, yes; others, no.

Q. 62. Which ones did you have before you? A. The Webster's School and Office Dictionary published by Thompson & Thomas; Webster's Self Pronouncing Dictionary published by Winston;

Max Hesslein—Cross.

4037

Webster's New Century Dictionary; Webster's Peabody Dictionary; those are the ones I think I had before me. The others were more or less in stock.

Q. 63. At what place were those dictionaries; at what store?

4038

Mr. CANNON: Objected to as incompetent and immaterial, and I direct the witness not to answer until the Court orders it is material.

Mr. HALL: The Examiner is requested to certify this question to the Court for a ruling, as to the propriety of the question.

Q. 64. All of the dictionaries named by you, excepting the one called "Webster's Unabridged Dictionary," were small or abridged dictionaries, were they not? A. Not all.

4039

Q. 65. Which were not? A. The dictionary published by George M. Hill, which I have mentioned here.

Q. 66. That is the one I referred to as Webster's Unabridged. With this exception all the others are small dictionaries? A. Smaller than the unabridged dictionary, of course.

4040

x Q. 67. Do you know whether or not some of these dictionaries are not the same book; that is, the literary contents of them are the same, but with changed names and changed publishers? A. Yes.

x Q. 68. That is to say, some of them were first published by one publisher under a given name, and subsequently were issued by another publisher under a different title or name? Do you know that to be a fact in some instances? A. In some instances, yes.

Q. 69. Do you have either some of the books owned by you have been used to give away as advertisements and with advertising matter printed upon them? A. That I could not say.

Q. 70. You have no recollection of seeing any such books? A. No.

Q. 71. Have you ever personally sold dictionaries to customers? A. I have.

Q. 72. And you have carried in stock Webster dictionaries published by the Merriam, and at the same time dictionaries using the name "Webster" which were not published by the Merriam? A. We have.

Q. 73. When a customer came in under those circumstances and asked for a small Webster dictionary, what was the usual course of procedure? A. We showed them various dictionaries published by various publishers.

Q. 74. You mean you showed them the stock of dictionaries bearing the name "Webster" and allowed them to select for themselves? A. In a great many instances, yes.

Q. 75. For how long have you been a buyer for the various concerns mentioned, or what was your course? A. Twenty-seven years.

Q. 76. Do you deal directly with the various publishers in buying your stock? A. By major portion of purchases.

Q. 77. And in the course of this business you have become familiar with books and their publishers? A. Yes.

Q. 78. I presume much more so than the ordinary or average purchaser of books? A. Yes.

Q. 79. When did you first hear of Webster's dictionary? A. Well, I think since 1855.

Q. 80. What does the date in the publisher's

Max Hesslein—Cross.

4045

imprint upon the title page mean? A. In regard to any one particular book?

x Q. 81. I want the general custom of the publishing trade as to use of dates in the imprint generally? A. That it is a new book.

4046

x Q. 82. Don't you know that it is practically a universal custom to indicate the date of printing the particular book, and to change the date of imprint from year to year?

MR. CARROLL: Objected to as assuming a state of facts not proved.

A. In some cases.

x Q. 83. At any rate, it is not at all an unusual custom, is it? A. No.

4047

x Q. 84. Referring to Defendant's Exhibit No. 1, you know, do you not, that the title page is copied substantially from the title page of the 1864 edition of Webster's dictionary, do you know? A. Yes.

x Q. 85. This exhibit upon its title page purports to be the 1864 edition, with a supplement of more than 5,000 words and phrases, is that correct?

MR. CARROLL: Objected to; the book itself is the best evidence.

A. Yes.

4048

x Q. 86. And upon the back of the title page it contains copyright notices dated in the years 1864, 1879, 1892 and 1903; does it not? A. Yes, sir.

x Q. 87. This book also contains, beginning at page 1529, a supplement of additional words and meanings as referred to upon the title page, which were not in the 1864 edition of that book, is that correct?

Max Hesslein—Cross.

4049

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial; as leading, and on the ground that the book itself is the best evidence of all these facts.

A. Yes.

MR. HALE: I desire to read in the record the heading of the supplement referred to, which is as follows:

"Supplement of additional words and definitions to the 1864 edition of Webster's Unabridged Dictionary."

4050

x Q. 88. Do you know what, if any, other changes were made in the text of that book before it was published and copyrighted in the year 1903? A. No, I do not.

x Q. 89. You have stated that some of the dictionaries named by you are the same book under different names and with different publishers. The Webster's New Century Dictionary of Cupples & Leon and the Webster's New Standard of the Syndicated Publishing Company, which are the books involved in this case, are substantially the same identical book, are they not? A. I was led to believe that there are a few words in one dictionary which are not in the other.

4051

x Q. 90. You mean a few plate corrections, something of that sort? A. Well, words.

x Q. 91. I presume you also know that these books had still another name and another publisher before they appeared under the titles given by you?

4052

MR. CARROLL: I object to padding the record with questions which relate to admitted facts.

4053

Max Hesslein—Re-Direct.

A. So I was informed.

RE-DIRECT EXAMINATION by Mr. Carroll:

4054

R-D. Q. 92. Aside from the two books just mentioned, namely the one published by the Syndicate Publishing Company and the one published by Cupples & Leon, which are the ones involved in this suit, do you know of any other instances in the list of books given by you where the same book has appeared under two different names and as coming from two different publishers. A. Yes, I do.

R-D. Q. 93. Will you name all of those instances? A. Webster's Vest Pocket Dictionary, which was published——

4055

R-D. Q. 94. This question is only directed toward an explanation of the list which has appeared on the record. I withdraw the other question and repeat the question in this form.

Please look at your answer to Q. 45 appearing on page 1007 of the testimony and state whether or not there are any other instances in which the same books have appeared in two different names, and with the imprint of two different publishers? A. The Webster's Home & School Dictionary published by Barse & Hopkins, but I cannot tell you what name it was under.

4056

R-D. Q. 95. You seem to misunderstand the question. You have stated that Webster's New Standard Dictionary published by the Syndicate Publishing Company and Webster's New Century Dictionary published by Cupples & Leon mentioned in your answer to Q. 45 are substantially the same book. This is an admitted fact in this case; are there any other instances in the list given

Max Hesslein—Re-Cross.

4057

by you in answer to Q. 45 of substantially the same book appearing under a different title? A. No, they are all different books.

R-D. Q. 96. What does the average customer think that the date on the bottom of the title page means? A. That he is purchasing an up-to-date book.

R-D. Q. 97. If the date on the bottom of the title page is 1810, do you still think the purchaser would understand that to mean an up-to-date book? A. No.

4058

R-D. Q. 98. Do you, then, wish to correct your answer to R-D. Q. 96? A. That it is published in that year.

R-D. Q. 99. Does the average customer ever look at the copyright notice on the back of title pages? A. They do not.

R-D. Q. 100. Would the date 1906 on the title page of a reference book indicate to the average customer that it was a book revised down to 1906? A. Yes.

4059

RE-CROSS EXAMINATION BY MR. HALE:

R x Q. 101. In the list of dictionaries using the name "Webster" that you gave in answer to direct question 45 you name "Webster's School and Office Dictionary, by Thompson & Thomas." You know, do you not, that that same identical book is issued under several titles by several publishers, do you not?

4060

MR. CARROLL: We are willing to admit that some of the books which appear in this list have been published with some changes by other publishers under different names. Mr. Hesslein has stated, however, that the only duplicates on this list, as given by

4061

Max Hesslein—Re-Cross.

him are the two books published by Syndicate Publishing Company and by Cupples & Leon. I object to this line of questions, therefore, as immaterial and as unnecessary for any purpose.

A. No, I do not.

4062

R x Q. 102. Don't you know that Donohue's Webster's School Dictionary, which you have named, was formerly published by Allison, under the name of Allison's Webster's Dictionary, and prior to that under the name of Allison's American Pictorial Handy Lexicon, not using the name "Webster"; do you know that fact? A. I do not.

4063

R x Q. 103. Do you know that Webster's Concise Dictionary, published by A. L. Burt, is nothing but a reprint of this same Allison's Dictionary.

MR. CARROLL: Objected to as assuming a state of facts in no way proven.

A. No, sir.

R x Q. 104. You do know, however, that there are on sale under different titles and with different publishers several of these so-called Webster's dictionaries to which you have referred?

4064

MR. CARROLL: Objected to as having been already fully answered, and as irrelevant and immaterial.

A. Yes.

DEPOSITION CLOSED.

MAX HESSLEIN.

Subscribed and sworn to:

JOHN A. SHIELDS,

Standing Examiner.

H. Josephine Pfanstiehl—Direct.

4065

H. JOSEPHINE PFANSTIEHL, a witness called by and on behalf of the defendants, having been first duly cautioned and sworn, testified as follows:

DIRECT EXAMINATION by Mr. Carroll:

Q. 1. Please state your name, age residence and occupation. A. H. Josephine Pfanstiehl; age, mature; residence, 233 Sixth Ave., Newark, N. J.; occupation, assistant buyer, Hahne & Co.

4066

Q. 2. How long have you been in the book business? A. About 25 years.

Q. 3. In what capacity have you been acting during that period? A. Always in and around books; never anywhere else.

Q. 4. Have you during most of that time sold books personally directly to customers? A. Yes.

Q. 5. Can you state what the ordinary purchaser means when he asks for a Webster's Dictionary? A. A dictionary; that is all, just what they call for. A reference book.

4067

Q. 6. When a customer asks for a Webster's Dictionary do you know at once what book he or she wants? A. No.

Q. 7. What do you do when a customer comes in and asks for a Webster's Dictionary? A. We try to find out for what purpose it is wanted.

Q. 8. Does the average purchaser asking for a Webster's Dictionary say anything at all about the publisher? A. No.

4068

Q. 9. From your experience would you say that the average purchaser of any book thinks or cares about the publisher? A. Not to any great extent.

Q. 10. What kind of Webster's dictionaries seem to be most popular? A. What we call the handbook size; handy size.

4069

H. Josephine Pfanstiehl—Direct.

Q. 11. Do you remember any instances where customers have given their reasons for selecting one or the other dictionary among those which you show them? A. Price would make—I think price is what governs the decisions very often.

Q. 12. Would you say that the question of the publisher of a small abridged Webster's dictionary ever governs the decisions of the purchaser? A. No.

4070

Q. 13. Has it been your experience that the question of publisher of such a dictionary enters into the question at all? A. No.

Q. 14. Do the customers say what they want to use the small dictionaries for? A. Oftentimes, yes.

Q. 15. From these statements will you tell us what they usually want such a dictionary for? A. For school use.

4071

Q. 16. I show you a book entitled Webster's National Pictorial Dictionary, published by G. & C. Merriam, Springfield, Mass., bearing upon its title page the date 1881 and bearing one copy-right notice, dated 1867. Have you ever seen that book before? A. Yes.

MR. CARROLL: I offer the book in evidence. Marked "Defendant's Exhibit No. 2, JAS, EXR."

4072

Q. 17. Is this your book? A. Yes.

Q. 18. When did you purchase it? A. I could not say; it has been in the home a good many years.

Q. 19. When you purchased this book did you know as much about the book business as you do now? A. No indeed.

Q. 20. What did you understand the date on

H. Josephine Pfanstiehl—Direct.

4073

the title page to mean? A. I didn't purchase the book; my father bought it.

Q. 21. What do you think the date on the imprint of a reference book means to the average customer? A. It means an up-to-date book; the information is that it is accurate. I mean that the date is very often misleading on the title page in a reference book.

Q. 22. You mean that the date 1881 appearing on the title page of Defendant's Exhibit No. 2 would lead the average customer to believe that the contents of this book are revised and brought up to the date 1881?

4074

MR. HALE: Objected to as incompetent and immaterial and as calling for opinion only.

A. Yes.

Q. 23. And do you consider the date given on that title page as misleading? A. On a reference book.

4075

Q. 24. Why is that? A. Usually it is dated years later than the copyright.

Q. 25. On this particular book Defendant's Exhibit No. 2 is the date 1881 appearing on the title page misleading?

MR. HALE: Objected to as calling for opinion and as wholly irrelevant and immaterial.

4076

A. Yes.

Q. 26. Why? A. The date of the title page is years after the copyright.

Q. 27. How many years? A. The difference between 1867, the date of the copyright, and 1881 on the title page.

4077

H. Josephine Pfanstiehl—Cross.

CROSS-EXAMINATION by Mr. Hale:

x Q. 28. It is a custom of the trade, is it not, to put the date of the printing of the particular volume in the publisher's imprint, and that is what that date actually refers to, does it not? A. Yes.

4078

x Q. 29. Can you name any works which afford a good illustration of that other than the one before you? A. As a class, I should say reference books.

x Q. 30. In your book experience covering twenty-five years have you always handled the Merriam's Webster's dictionary? A. As far as I can remember.

x Q. 31. And during that whole time have you also handled other dictionaries using the name Webster which were not published by the Merriams? A. Yes.

4079

x Q. 31. When a customer comes in and asks for a small Webster dictionary, describe the usual and ordinary course of the transaction? A. We interrogate the customer and find out the price they are willing to pay or for the purpose it is wanted; they cover every branch of school work; they are divided up into all kinds.

4080

x Q. 32. You then show them dictionaries of about the size and price apparently desired and allow them to select the particular one? A. Half a dozen or more are shown them.

x Q. 33. Do you usually explain to such customers the difference between the Merriam editions and the editions of other publishers? A. No.

x Q. 34. And have you upon occasion sold to persons calling for a Webster's school dictionary for use in the schools by children or young people

(*H. Josephine Pfanstiehl—Re-Direct.*)

4081

dictionaries not published by the Merriams? A. Yes.

x Q. 35. That is an ordinary occurrence? A. Yes, price would often regulate that.

x Q. 36. And sometimes you would sell to one person a dictionary of one publisher and to another person a dictionary of another publisher? A. Yes.

x Q. 37. Although in those cases they asked for a Webster's dictionary? A. Yes.

4082

x Q. 38. Of course you do not know and did not tell such customers whether or not the system of spelling and definitions and pronunciation used by these various dictionaries was the same or different? A. No.

x Q. 39. You are associated in business with Mr. Hesslein, the previous witness? A. Yes.

RE-DIRECT EXAMINATION by Mr. Carroll:

4083

R-D. Q. 39. You have stated that publishers mean to indicate by the date which appears on the title page the year when the book was printed? A. Yes, it means the year it was printed, but not the year it was copyrighted; that is what the date on the title page means.

R-D. Q. 40. Publishers mean to indicate then by the date on the title page the date of printing and not the date of the contents? A. Yes.

R-D. Q. 41. Does the ordinary customer so understand the date on the title page? A. No, sir.

4084

R-D. Q. 42. A date appearing therefore on the title page of a reference book, some fourteen years later than the latest copyright obtained on the contents of that book, would be deceptive to the average purchaser?

4085

(H. Josephine Pfanstiehl—Re-Cross.)

MR. HALE: Objected to as leading and argumentative.

A. Yes.

RE-CROSS EXAMINATION:

4086

R x Q. 43. Suppose there had been no intervening editions between the copyright date and the date of printing the book in question, where would the deception come in?

MR. CARROLL: Objected to as assuming a state of fact not proved and calling for a conclusion of this witness about a purely hypothetical state of facts.

A. It would still mean a book up-to-date.

4087

R x Q. 44. Have you ever sold any copies of the book called Webster's Dictionary published by Cupples & Leon? A. I have not sold them personally, I have seen them sold.

R x Q. 45. You mean the book is carried in stock in your store and sold by your clerks in the usual way? A. Yes.

R x Q. 46. You have spoken of price being an important consideration; what is the highest price at which this book has been sold (referring to Cupples & Leon Webster's New Century)? A. From two to two fifty.

4088

R x Q. 47. And what was the lowest price for the same book? A. Thirty-nine cents.

x Q. 48. Do you mean to say that you know of sales actually made at the price of \$2.50? A. Yes.

x Q. 49. Do you also sell in your department and keep in stock the book called Webster's New Standard Dictionary published by the Syndicate Publishing Company or the same book under the

(*H. Josephine Pfanstiehl—Re-Re-Direct.*)

4089

name of Webster's New Illustrated Dictionary?
A. We have sold books published by the Syndicate Publishing Company.

x Q. 50. You mean dictionaries published by the Syndicate Publishing Company? A. Yes.

x Q. 51. At what prices? A. Fifty cents to one fifty approximately.

RE-RE-DIRECT EXAMINATION by Mr. Carroll:

4090

R-R-D Q. 52. Can you explain the different prices at which the book, the New Century Dictionary was sold? A. The difference in binding.

R-R-D Q. 53. Then the thirty-nine cent and \$2.50 book although they may have had substantially the same contents, were differently bound and on different paper?

MR. HALE: Objected to as leading.

A. Yes.

4091

DEPOSITION CLOSED.

H. JOSEPHINE PFANSTIEHL.

Subscribed and sworn to:

JOHN A. SHIELDS, Standing Examiner.

ADJOURNED to Friday, May 3rd, 1912, place to be appointed, at 11 o'clock.

4092

4073

Luther M. Baskin—Direct.

New York, May 2nd, 1912.

Met pursuant to adjournment.

Present: Counsel as before, and also George F. Sloan, Esq., of counsel for the Syndicate Publishing Company.

4074

LUTHER M. BASKIN, a witness called by and on behalf of the defendants, testified as follows:

DIRECT EXAMINATION by Mr. Sloan:

Q. 1. What is your name, age, residence and occupation? A. My name is Luther M. Baskin; my age is 44; my residence is 530 West 53rd Street, New York City; occupation, vice-president of the Syndicate Publishing Company.

4075

Q. 2. Are you the Mr. Baskin who has given an affidavit heretofore in this case? A. I am.

Q. 3. Did you at one time, and, if so, when or about when, make a canvass of about one hundred persons in New York City for the purpose of ascertaining what their knowledge was regarding the use of the name "Webster" in the title of the dictionary so far as it indicated the source of publication of such dictionary? A. I made that canvass just prior to February 20th, 1912.

4076

Q. 4. What method did you adopt in selecting the persons whom you thus canvassed? A. I took a notion mostly the other, ranging between 42nd Street and down toward 23rd Street and between Fifth Avenue and Broadway. I endeavored to make a canvass of each and every business house, and some cases I did not get to in

business practice is some house for the reason that the heads of the Department were not in and I tried to confer my services to those occupying the better positions in the house where I called, including proprietors, managers, authors and clerks.

Q 3. Were relations as not you discriminated in the persons interviewed or took them as such? A. I made no discrimination whatever, but took the people just as I came to them, of the classes above referred to.

Q 4. How far, if at all, did you know the people you interviewed before interviewing them? A. I had no personal acquaintance with any of them. I, however, interviewed on my route the business with which we do business, but was not personally acquainted with anyone in the bank. With that exception I had no personal acquaintance.

Q 5. Will you now state in substance, the way in which you approached the person interviewed and how you introduced the subject of your inquiry, and what, if anything, you said to him before asking him the questions which you had in mind to ask? A. My general method of introduction was to walk into a place of business and call for the proprietor or manager to begin with and then found him and introduced myself as Banks and stated that I desired to ask them questions, as a matter of general and private information, and that I would like to know, if they pleased, to answer them to the best of their ability, without asking me any questions in return a hearing or an answer.

Q 6. What questions did you then ask the person interviewed? A. (a) Do you know any of the publishers or who are the publishers of *Frank*

4101

Luther M. Rankin—Direct.

ster's Dictionaries? (b) When you hear or see the name "Webster's Dictionary" on a dictionary does it indicate to you a dictionary published by any particular house or at any particular place? (c) Do you know any city or cities where any Webster's dictionaries are published.

4102

Q. 9. Have you since scheduled and summarized the answers which you received from the parties interviewed? A. I made a classification of the answers.

Q. 10. And besides that did you from memoranda which you made at the time of the interview make out a schedule showing exactly what each person interviewed said in answer to each of the questions? A. I did.

Q. 11. Was this schedule of answers incorporated in the affidavit which you have heretofore made in this case? A. It was.

4103

Q. 12. Does this schedule include all answers whether they were favorable or unfavorable to the contention of the defendant in this case relative to the knowledge of the public in the matter of the source of publication of Webster dictionaries? A. It includes the answer of each and every person interviewed.

4104

Q. 13. Please furnish that schedule here? A. I furnish the schedule which was incorporated in the affidavit I have already made and which I believe to be exact in every respect.

"(Marked in evidence, "Defendants' Exhibit Copy of Schedule produced by witness Rankin, J. A. S. Exr., May 3, 1912.)

Said schedule is by consent printed at this point instead of separately, and is as follows:

Exhibit: Schedule Produced by Witness Rankin. 4105

The persons, their addresses, occupations and the answers which each gave to the foregoing questions are as follows:

Jacob Bock, 159 East Houston St., Proprietor Bakery.

Question (a). No.

Question (b). No.

Question (c). No.

F. Ohebach, 30 East 21st St., Cigars, etc.

4106

Question (a). No.

Question (b). No.

Question (c). No.

F. Milgner, 37 West 21st St., Clerk Mercantile Land Co.

Question (a). No.

Question (b). No.

Question (c). No.

4107

Daniel F. Voorhees, 37 West 21st St., Book-keeper Mercantile Land Co.

Question (a). No.

Question (b). No.

Question (c). No.

F. Keane, 37 West 21st St., Clerk Mercantile Land Co.

Question (a). No.

Question (b). No.

Question (c). No.

4108

F. J. Guilfoyle, 1155 Broadway, Merchant Tailor.

Question (a). No.

Question (b). No.

Question (c). No.

4109 *Exhibit: Schedule Produced by Witness Rankin.*

G. Pommville, 1155 Broadway, Merchant Tailor.

Question (a). I couldn't tell you.

Question (b). No.

Question (c). All over the world.

B. Rosner, 1155 Broadway, Cashier Guilfoyle & Pommville, Merchant Tailors.

4110 Question (a). No.

Question (b). No.

Question (c). Should think they are published in all large cities.

W. Washburn, 1161 Broadway, Manager Regal Shoe Store.

Question (a). I do not.

Question (b). It does not. Don't know why it should, as anybody can publish Webster dictionaries.

4111

Question (c). No, sir.

W. N. Noville, 1161 Broadway, Assistant Manager Regal Shoe Store.

Question (a). No.

Question (b). No.

Question (c). No. Never took time to look up the matter.

4112 L. Kapham, 1161 Broadway, Cashier Regal Shoe Store.

Question (a). No.

Question (b). No.

Question (c). About all large cities of the world.

Exhibit: Schedule Produced by Witness Rankin. 4113

J. Aitchison, 1167 Broadway, Optical Goods.

Question (a). I do not know. Suppose a good many people publish them; perhaps Funk & Wagnalls among others.

Question (b). No.

Question (c). Could be published in any city.

W. H. Mathews, 1169 Broadway, Asst. Mgr. 4114
G. S. Mahn Cigar Store.

Question (a). I do not.

Question (b). No.

Question (c). I don't recall any.

J. Fecher, 1175 Broadway, Manager Walk-Over Shoe Store.

Question (a). I believe they are free for any one to publish. 4115

Question (b). No.

Question (c). Suppose they are published in New York.

J. Diesel, 1175 Broadway, Clerk Walk-Over Shoe Store.

Question (a). No.

Question (b). No.

Question (c). No.

Charles A. Haslacker, 1175 Broadway, Clerk 4116
Walk-Over Shoe Store.

Question (a). No.

Question (b). No.

Question (c). No.

4117 *Exhibit: Schedule Produced by Witness Rankin.*

D. S. Beck, 1177 Broadway, Manager Beck Shoe Store.

Question (a). Don't know.

Question (b). No, sir.

Question (c). No, sir.

J. H. Canavan, 1179 Broadway, Manager Hicks' Fruit Store.

4118 Question (a). No.

Question (b). No.

Question (c). No.

M. A. Rein, 1179 Broadway, Cashier Hicks' Fruit Store.

Question (a). No.

Question (b). No.

Question (c). No.

4119 H. M. Murphy, 1183 Broadway, Asst. Ticket Agt. D. L. & W. Ry.

Question (a). No.

Question (b). No.

Question (c). No.

J. G. Bray, 1183 Broadway, City Ticket Agt. D. L. & W. Ry.

Question (a). No.

4120 Question (b). It indicates that it is not published by Funk & Wagnalls.

Question (c). No.

J. N. Perron, 31 East 27th Street, Manufacturing Chemist.

Question (a). I do not.

Exhibit: Schedule Produced by Witness Rankin. 4121

Question (b). No; would have to open up to see.

Question (c). Would say Philadelphia.

M. G. Keith, 1172 B'way, Mgr. National Cash Register Co. Store.

Question (a). No.

Question (b). No.

Question (c). No.

4122

L. R. Rounds, 1180 Broadway, Asst. Manager Poland Springs Co.

Question (a). Cannot say.

Question (b). No.

Question (c). No.

M. Furth, 1180 Broadway, Clerk Poland Spring Company.

Question (a). No.

Question (b). No.

Question (c). No.

4123

W. N. Lowrie, 1184 Broadway, General Passenger Agt. Great Northern Ry.

Question (a). No.

Question (b). No.

Question (c). No.

S. G. Linderbeek, 1184 Broadway, Chief Clerk Seaboard Air Line.

4124

Question (a). No.

Question (b). No; there are half a dozen publishers of Webster dictionaries.

Question (c). No.

4125 *Exhibit: Schedule Produced by Witness Rankin.*

J. F. Brodil, 1200 Broadway, Trunk Manufacturers.

Question (a). Don't know; there are so many of them.

Question (b). No, no.

Question (c). I think New York.

E. Murphy, 1204 Broadway, Cashier Shanley's Restaurant.

4126

Question (a). No.

Question (b). No.

Question (c). No.

A. Macfarland, 1216 Broadway, Agent New York Central Lines.

Question (a). Have an idea copyright has run out and anybody publishes them.

4127

Question (b). No.

Question (c). Would be merely guess work.

G. B. Ecker, 1218 Broadway, General Passenger Agt. Atlantic Coast Line.

Question (a). No.

Question (b). No.

Question (c). No.

4128

Charlotte McCormick, 31st St. & B'way, Cashier Drug Store.

Question (a). No.

Question (b). I have always thought most every publisher put them on the market.

Question (c). I suppose many of them are published in New York.

Exhibit: Schedule Produced by Witness Rankin. 4129

J. C. Dunn, 17 W. 32nd Street, Chief Clerk Aberdeen Hotel.

Question (a). No.

Question (b). No.

Question (c). No.

R. C. Daley, 17 W. 32nd St., Operator Aberdeen Hotel.

Question (a). No.

4130

Question (b). No.

Question (c). No.

Chester Alexander, 34th St. & B'way, Mgr. Rogers, Peet & Co.

Question (a). No.

Question (b). No.

Question (c). No.

W. B. Moore, 1240 Broadway, Druggist.

4131

Question (a). No.

Question (b). No.

Question (c). No.

E. J. Usk, 1205 Broadway, Manager Sarnoff Hat Co.

Question (a). No.

Question (b). No.

Question (c). No, sir.

W. F. Dougherty, 29th St. & B'way, Cashier Breslin Hotel. 4132

Question (a). No.

Question (b). No.

Question (c). No.

4133 *Exhibit: Schedule Produced by Witness Rankin.*

Chas. Gal, 1217 Broadway, Jeweler.

Question (a). No.

Question (b). No.

Question (c). No.

J. M. Lokitz, 1225 Broadway, Manager Kaufman's Hat Store.

Question (a). No.

4134 Question (b). No.

Question (c). No.

E. V. Bryant, 1255 Broadway, Manager Hanan & Son's Shoe Store.

Question (a). No; think anybody can publish Webster dictionary.

Question (b). No.

Question (c). No.

4135 M. Carroll, 1255 Broadway, Cashier Hanan & Son's Shoe Store.

Question (a). No; suppose any publisher can make them.

Question (b). No.

Question (c). No.

M. L. Norwich, B'way & 32nd St., Manager John David, Clothing.

4136 Question (a). No.

Question (b). Yes, but don't know who.

Question (c). No.

Charles Gaspard, 1259 Broadway, Manager Haberman's Drug Store.

Question (a). No, but I think there are several.

Exhibit: Schedule Produced by Witness Rankin. 4137

Question (b). I do not.

Question (c). Do not recall any.

S. L. Stern, 1259 Broadway, Cashier Haberman's Drug Store.

Question (a). I do not.

Question (b). No; any publisher can make Webster dictionaries. No patent on the word, I hope. 4138

Question (c). I do not.

Harry A. Noah, 11 & 13 W. 32nd Street, Fur Dealer.

Question (a). No.

Question (b). No.

Question (c). No.

Charles A. Sackett, 49 W. 33rd St., President Mutual Bank. 4139

Question (a). No.

Question (b). No.

Question (c). No.

Hugh N. Kirkland, 49 West 33rd St., Cashier Mutual Bank.

Question (a). No.

Question (b). No.

Question (c). No.

Eugene Galvin, 49 W. 33rd St., Asst. Cashier Mutual Bank. 4140

Question (a). No.

Question (b). No.

Question (c). No.

4141 *Exhibit: Schedule Produced by Witness Rankin.*

A. D. MacLeod, 1269 Broadway, Manager
Browning, King & Co., Clothing.

Question (a). No.

Question (b). No; if I bought a Webster
dictionary I would not
care who published it, if
it was a good dictionary.

4142 Question (c). I believe Lippincott's,
Phila., publish Webster
dictionaries.

R. B. Harris, 1269 Broadway, Floor Mgr.
Browning, King & Co., Clothing.

Question (a). No.

Question (b). No.

Question (c). No.

4143 J. Adams Brown, 41 W. 34th St., President New
Netherland Bank of N. Y.

Question (a). Syndicate Publishing Co.

Question (b). Syndicate Publishing Co.

Question (c). New York.

C. J. Beard, 41 W. 34th St., Cashier New Neth-
erland Bank of N. Y.

Question (a). G. & C. Merriam.

Question (b). G. & C. Merriam.

Question (c). No.

4144 Miss M. Gadsil, 43 West 34th St., Manager Huy-
ler's Store.

Question (a). No.

Question (b). No.

Question (c). Don't know.

Exhibit: Schedule Produced by Witness Rankin. 1145

P. J. Keelan, 341 5th Ave., Secretary Bureau of Literature.

Question (a). No.

Question (b). No.

Question (c). No.

Gordon Dalrymple, 341 5th Ave., Mgr. Collection Dept. Bureau of Literature.

Question (a). No.

Question (b). No.

Question (c). No.

4146

S. Ryan, 341 5th Ave., Bookkeeper Bureau of Literature.

Question (a). No.

Question (b). No.

Question (c). No.

George A. Coulon, 341 5th Ave., Clerk Bureau of Literature.

4147

Question (a). No.

Question (b). No.

Question (c). No.

E. Vanderhoof, 341 5th Ave., Stenographer Bureau of Literature.

Question (a). No.

Question (b). No.

Question (c). No.

4148

E. Fricke, 341 5th Ave., Stenographer Bureau of Literature.

Question (a). No.

Question (b). No.

Question (c). No.

4043 *Exhibit: Schedule Produced by Witness Reaction.*

W. Plunkett, 321 3d Ave., Stenographic Bureau of Librarians.

Question (a). No.

Question (b). No.

Question (c). No.

O. Rensch, 3d Ave. & 34th St., Salomon B. Minn & Co.

4050 Question (a). No.

Question (b). No.

Question (c). Yes; New York City.

L. R. Fay, 3d Ave. & 34th St., Salomon B. Minn & Co.

Question (a). No.

Question (b). No.

Question (c). That does to me not relate to New York City.

4051 J. O'Donnell, 3d Ave. & 34th St., Salomon B. Minn & Co.

Question (a). Can't say.

Question (b). No.

Question (c). Some relation information was made to New York City.

H. E. C. Co., 321 3d Ave., Managers E. & F. Company's Store.

4052 Question (a). Can't say.

Question (b). No.

Question (c). That case was published in New York City.

J. Winton, Broadway & 34th St., Sign Shop, Charles H. H. H. H. H. & Co.

Question (a). No.

Exhibit: Scholar's Preface by William Butler 1119

Question (1): No.

Question (2): No.

E. A. Clegg, President of 1910-11, Manager
1910-1911 (1) (2) May 1911.

Question (3): No.

Question (4): No.

Question (5): No.

J. Shattuck, President of 1911-12, Manager 1120
1911-1912 (1) (2) May 1912.

Question (1): Don't know.

Question (2): I don't know.

Question (3): No.

A. B. Stannard, President of 1912-13, Manager
1912-1913 (1) (2) May 1913.

Question (1): That question is not.

Question (2): No.

Question (3): That name was used in 1121
but not.

H. C. Clegg, President of 1913-14, Manager
1913-1914 (1) (2) May 1914.

Question (1): That is a question for me.

Question (2): No. There are several and
many.

Question (3): No.

A. Shattuck, President of 1914-15, Vice-Man 1121
1914-1915 (1) (2) May 1915.

Question (1): I think that is a question
for me.

Question (2): I don't know.

Question (3): That name was used
often.

4157 *Exhibit: Schedule Produced by Witness Rankin.*

J. H. Bissell, 1324 Broadway, Manager Douglas Shoe Store.

Question (a). No.

Question (b). No.

Question (c). No.

F. K. Waller, 1354 Broadway, Bookkeeper N. Y. Transfer Co.

4158 Question (a). Merriam used to be; also Lippincott and Funk & Wagnalls.

Question (b). No.

Question (c). No.

A. T. Young, 1360 Broadway, Manager Baltimore Restaurant.

Question (a). No.

Question (b). No.

Question (c). No.

4159

R. T. Parker, 1325 Broadway, Manager Dr. Reed's Cushion Shoe Store.

Question (a). No.

Question (b). No.

Question (c). No.

P. Oldstein, 1341 Broadway, Clerk Kaiser Neckwear Store.

4160

Question (a). Collier for one.

Question (b). No.

Question (c). New York City for one place.

M. Goodman, 230 W. 39th St., Drug Clerk.

Question (a). No.

Question (b). No.

Question (c). No.

Exhibit: Schedule Produced by Witness Rankin. 4161

W. E. Ballard, 7 W. 65th St., Manager Bureau of Literature.

Question (a). No.

Question (b). No.

Question (c). No.

J. L. Johnson, Asst. Mgr. Manhattan Hotel, Madison Ave. & 42nd St.

Question (a). No.

Question (b). No.

Question (c). No.

4162

J. Edward Martin, Asst. Mgr. Manhattan Hotel, Madison Ave. & 42nd St.

Question (a). No.

Question (b). No.

Question (c). No.

W. N. Timpson, Cashier Manhattan Hotel, Madison Ave. & 42nd St.

4163

Question (a). Trow City Directory for one.

Question (b). No.

Question (c). None except New York City.

C. Trevor, 3 East 42nd St., Secretary Morton & Co.

Question (a). No.

Question (b). No.

Question (c). No.

4164

O. W. Sheets, 4 E. 42nd St., Manager Connor Piano Co.

Question (a). Funk & Wagnalls for one.

Question (b). Never thought of it.

Question (c). No.

4165 *Exhibit: Schedule Produced by Witness Rankin.*

H. E. Shaw, 7 E. 42nd St., Paying Teller Branch
Corn Exchange Bank.

Question (a). No.

Question (b). No.

Question (c). No.

E. J. Crowley, 13 E. 42nd St., Manager U. C. S.
Company's Store.

4166 Question (a). No.
 Question (b). No.
 Question (c). No.

T. Elliott, 59 W. 42nd St., Salesman White En-
amel Co.

Question (a). No.

Question (b). No.

Question (c). No.

4167 E. F. Van Voorhies, 501 Fifth Ave., Real Estate
Salesman.

Question (a). No.

Question (b). No.

Question (c). Don't know.

Max Mitchell, 501 Fifth Avenue, Jeweler.

Question (a). No.

Question (b). No.

Question (c). New York, I think.

4168 J. Brown, 501 Fifth Ave., Jewelry Salesman.

Question (a). No.

Question (b). No.

Question (c). Some syndicate; forget
name.

Exhibit: Schedule Produced by Witness Rankin. 4169

H. J. Samuels, 503 Fifth Ave., Manager E. Scheyer & Son's Shoe Store.

Question (a). No.

Question (b). No.

Question (c). No.

J. Johnson, 503 Fifth Ave., Manager Barr & Company's Shoe Store.

Question (a). No.

Question (b). No.

Question (c). No.

4170

George S. Starling, 503 Fifth Ave., Bookkeeper Barr & Company's Shoe Store.

Question (a). There must be a hundred.

Question (b). It depends; if a cheap one, probably made by Frank Lipton, Chicago.

Question (c). New York, Chicago and other places. 4171

J. Riley, 503 Fifth Ave., Manager of Warner Hat Store.

Question (a). G. & C. Merriam for one; there are others.

Question (b). No.

Question (c). Boston, or some place in Massachusetts, for one place. 4172

M. J. Walker, 503 Fifth Ave., Salesman Warner Hat Store.

Question (a). Think there are several.

Question (b). No.

Question (c). New York and other places.

4173 *Exhibit: Schedule Produced by Witness Rankin.*

A. Brock, 503 Fifth Ave., Merchant Tailor.

Question (a). No.

Question (b). No.

Question (c). No.

M. Bauer, 503 Fifth Ave., Manager Weber & Heilbroner.

Question (a). No.

4174

Question (b). No.

Question (c). No.

W. C. Farrell, 503 Fifth Ave., Manager Hat Dept. Weber & Heilbroner.

Question (a). No.

Question (b). No.

Question (c). No.

R. H. Benely, 503 Fifth Ave., Clerk Weber & Heilbroner.

4175

Question (a). American News Co., or
American Book Company
for one.

Question (b). No.

Question (c). Chicago for one place.

J. Fine, 503 Fifth Ave., Clerk Weber & Heilbroner.

Question (a). No.

4176

Question (b). No.

Question (c). No.

L. Brunning, 503 Fifth Avenue, Cashier Weber & Heilbroner.

Question (a). I do not.

Question (b). No.

Question (c). No.

Exhibit: Schedule Produced by Witness Rankin. 4177

William F. Devine, 40 Wall St., Bookkeeper
Strong & Cadwalader.

Question (a). No.

Question (b). No.

Question (c). No.

Wm. H. Eagleson, 40 Wall St., Bookkeeper
Strong & Cadwalader.

Question (a). No.

Question (b). No; anybody can use that
name. 4178

Question (c). No.

John Murney, 40 Wall St., Bookkeeper Strong
& Cadwalader.

Question (a). No.

Question (b). No.

Question (c). Some firm on Fifth Avenue
near 21st St. published an
edition. 4179

Edgar B. Magnus, 40 Wall St., Clerk Strong &
Cadwalader.

Question (a). Merriam of Springfield.

Question (b). Yes, Merriam; I have two
of their dictionaries at my
home.

Question (c). Springfield, Mass.

Q. 14. How many names are there in this sche- 4180
dule? A. One hundred and one as I remember
it, sir.

Q. 15. Will you please give the summary which
you prepared of the answers to the questions
which you asked?

4181

Luther M. Rankin—Direct.

MR. HALE: Objected to as incompetent, irrelevant and immaterial and as calling for the conclusion and summary of the witness. The answers should be allowed to speak for themselves.

4182

A. To question a, ninety-two had no idea as to who were the publisher or publishers of Webster's dictionaries; of the balance who had a particular publisher in mind as associated with the name "Webster" four associated Funk & Wagnalls in their mind with such publication, three associated the Merriams and one each associated the Syndicate Publishing Company, Appleton's, Lippincott, Collier, Trow City Directory Co., American News Company and American Book Company.

4183

To question b, as to whether the name "Webster" as the title of a dictionary indicated the particular publisher, ninety-eight showed by their answers that they assumed that any one might publish the book. Of the other three two answered Merriam, and one answered Syndicate Publishing Company.

4184

To question c, as to the locality of publication, the answers further emphasized the fact that the name "Webster" was not associated in the public mind with a book published in Springfield; for one only, named that locality as the place of publication, while fourteen named New York, two named Philadelphia, and one named Chicago.

Direct examination closed. Oath, Signature and cross examination waived.

DEPOSITION CLOSED.

William F. Donohue—Direct.

4185

WILLIAM F. DONOHUE, a witness called by and on behalf of the defendants, testified as follows:

DIRECT EXAMINATION by Mr. Carroll:

Q. 1. Please state your name, age, residence and occupation? A. My name is William F. Donohue; my age is 44; my residence is Chicago, Ill., 5619 Sheridan Road; occupation, publisher and book manufacturer.

Q. 2. How many years have you been in the book business? A. Twenty-six.

4186

Q. 3. What is your connection with the business in which you are now occupied? A. I look after the book selling and publishing.

Q. 4. What is the name of that concern? A. M. A. Donohue & Company.

Q. 5. Has your concern ever published dictionaries with the names "Webster" in the title? A. Yes, sir.

4187

Q. 6. Will you give a list of the Webster's dictionaries which you have published as closely as you remember them? A. We have Donohue's Vest Pocket Webster, Donohue's Handy American Webster, Donohue's Reprint of Webster's Unabridged Dictionary.

Q. 7. Did this reprint edition of which you have just spoken have a large sale? A. Very large sale.

Q. 8. Can you give approximately the number of volumes which were sold? A. Over a million.

4188

Q. 9. When did this book have its largest sale? A. Well it had the largest sale about the first five or six years that we reprinted it.

Q. 10. When was that? A. That was in about '94.

Q. 11. Did the full title of this dictionary as given by you, namely, "Donohue's Reprint of

4189

William F. Donohue—Direct.

Webster's Unabridged Dictionary'' appear clearly on the outside of the book? A. Yes.

Q. 12. Did this in any way interfere with the sale of the book?

MR. HALE: Objected to as irrelevant, immaterial and as calling for a guess of the witness.

4190

A. No, it did not interfere.

Q. 13. Did you advertise this reprint edition?

A. Yes.

Q. 14. What methods of advertising did you use? A. Circulars, catalogues, trade papers, also newspapers and magazines.

Q. 15. Can you give any estimate of the amount of money which you spent in advertising this reprint edition? A. I should think about \$100,000.

4191

Q. 16. Have you advertised the other Webster's dictionaries published by you? A. Yes.

Q. 17. Have you advertised them in the same way? A. Practically about the same way.

Q. 18. Can you give any estimate of the amount which this advertising cost you? A. Oh, I think \$15,000 or \$20,000.

4192

Q. 19. Have you kept a fairly close watch on the advertising which has been done by various different publishers of Webster's dictionaries in the last twenty years? A. I have noticed various advertisements.

Q. 20. What proportion of the whole advertising of Webster's dictionary which you have noticed has been that of the G. & C. Merriam Company?

MR. HALE: Objected to as irrelevant and immaterial and as calling for a mere con-

William F. Donohue—Direct.

4193

clusion of the witness upon a matter as to which accurate data has not been presented.

A. Well that would only be a matter of opinion; I don't know. My impression is that about a fifth of all Webster's dictionaries advertised that I have observed were advertised by the G. & C. Merriam Company.

Q. 21. Have you knowledge of the amount of advertising which Laird & Lee have given their book? A. Mr. Lee told me that he had spent as much money as Merriam had advertising the name "Webster's."

4194

MR. HALE: The answer of the witness is objected to as incompetent, being merely hearsay and motion is made to strike it out.

Q. 22. Have you any more particular knowledge about the advertising of any other of the publishers of Webster's dictionary? A. No specific knowledge, but I noticed a large number of publishers advertising Webster's dictionary.

4195

Q. 23. Can you name some of the publishers whose advertisements you have seen bearing on Webster's dictionary? A. Syndicate Publishing Company, G. W. Ogilvie, Thompson & Thomas, Reilly & Britton, Cupples & Leon Company, Marsh & Company, R. S. Peale & Company. Loomis & Company, Saalfeld Publishing Company, and probably others that I don't recall right now.

4196

Q. 24. Over how many years have various ones of these publishers mentioned been advertising A. About twenty years. Brock & Rankin I recall also published it. Jerry O'Donnell is another one.

4197

William F. Donohue—Direct.

Mr. Funk in Michigan also made a school dictionary with the name "Webster" on it.

Q. 25. Do you know about the advertising of Webster's dictionary by the large mail order houses in Chicago? A. They have advertised them.

4198

Q. 26. And do you know the names of those mail order houses? A. Sears, Roebuck & Company, Montgomery Ward & Company, John M. Smyth & Company, Cash Buyers Union, Universal Supply Company, David B. Clarkson Company and Book Supply Company.

Q. 27. Have all of these houses to your knowledge advertised Webster's dictionaries? A. Yes, sir.

4199

Q. 28. Do you know what house published the Webster's dictionaries which they have advertised? A. I don't know all of them; I can mention some of them. Saalfeld Publishing Company, G. W. Ogilvie, they handle a Miles dictionary, called "Miles Vest Pocket Dictionary;" I am not sure whether they put the name "Webster" on their dictionaries or not.

THE WITNESS: Another publisher who has issued Webster's dictionaries was George M. Hill & Company.

4200

Q. 29. Do these mail order houses handle the Merriam dictionaries? A. I have seen their books advertised in catalogues of these houses.

Q. 30. Do they handle more Webster's dictionaries published by the Merriam Company than by other publishers or more by other publishers?

MR. HALE: Objected to as irrelevant and immaterial, as leading, and as calling for something not shown to be within the knowledge of the witness.

William F. Donohue—Direct.

4201

A. I do not know the relative quantities they handle or sell, but I have seen more advertising of Webster books of other publishers than I have of Merriam's in these catalogues.

Q. 31. Can you estimate the proportion of the amount of advertising in these catalogues devoted to Merriam books as compared with those of other publishers?

MR. HALE: Objected to as incompetent and immaterial and because not the best evidence, the catalogues being easily produced if desired. 4202

A. I estimate during the last twenty years about one-fifth of the advertising was Merriam and about four-fifths others. That is the advertising I have seen in those catalogues.

Q. 32. Have you printed catalogues for some of these mail order houses? A. Yes. 4203

Q. 33. Which ones? A. Well, we printed for Sears, Roebuck & Company, John M. Smyth Company, Book Supply Company and have done binding on Ward's, but I don't think we ever did any printing for them.

Q. 34. Your knowledge of the advertising which these mail order houses have devoted to Webster's dictionaries is therefore based largely upon the catalogues which you have printed yourself?

MR. HALE: Objected to as leading and argumentative. 4204

A. Yes, that is correct. I also examine all issues of their catalogues.

DIRECT EXAMINATION CLOSED.

(*William F. Donohue—Cross.*)

4205

CROSS-EXAMINATION by Mr. Hale:

x Q. 35. Are you or your firm at present publishing and selling dictionaries with the name "Webster" in the title? A. Yes, sir.

x Q. 36. How much did you spend in the last twelve months in advertising those dictionaries? A. Probably four or five thousand dollars; all kinds of advertising.

4206

x Q. 37. Is your information sufficient to enable you to answer with certainty that you spent as much as five thousand dollars advertising these dictionaries in the last twelve months. A. Yes.

x Q. 38. What was the nature of the bulk of this advertising? A. Catalogues, circulars, trade papers.

4207

x Q. 39. What are the full titles of the dictionaries you are now selling? A. "Donohue's Vest Pocket Webster," "Donohue's Webster Handy American Dictionary," "Donohue's Reprint Webster's Unabridged Dictionary."

x Q. 40. You said that it did not interfere with your sales to call this book a reprint of Webster's dictionary. Would it have interfered with those sales if you had called it a reprint of the 1847 edition of Webster's dictionary? A. No.

4208

x Q. 41. You have named a number of dictionaries using the name "Webster" other than those of the Merriam Company. Do you know whether or not some of those dictionaries are not identical with each other or substantially so, but published under different titles and handled by different concerns? A. Some may be identical, but many of them are different.

x Q. 42. You are familiar with the fact that plates or duplicate plates of some of these various

(William F. Donohue—Cross.)

4209

dictionaries have been passed from one concern to another and used for the production of dictionaries under the name "Webster"? A. That is, one publisher has sold another publisher plates?

x Q. 43. Yes, and the second publisher has used those plates in the production of what purports to be a new dictionary under a new title? A. I don't know of that fact.

x Q. 44. You never heard of that being done? A. Not to my knowledge; I haven't any actual knowledge of it; I have heard of publishers selling plates. 4210

x Q. 45. Did not you yourself or your house purchase the plates or duplicates of a previously existing dictionary first published without the name "Webster" in the title and then issue substantially the same dictionary matter, calling it "Webster's Dictionary"? A. No, sir.

x Q. 46. Were you or your concern ever identified with a firm doing business under the name of Donohue, Henneberry & Company. A. Yes, sir. 4211

x Q. 47. Did you publish a book entitled "Donohue's Webster's School Dictionary" and "American Pictorial Handy Lexicon of the English Language"? A. I don't recall any such book as that. We had a dictionary called "Popular American Dictionary."

x Q. 48. Do you remember that you or your firm bought a dictionary originally published by a concern doing business under the name of Allison? A. I think we did buy a dictionary from Allison. 4212

x Q. 49. What dictionary did you buy from Allison? A. A little handy dictionary.

x Q. 50. Was it the dictionary entitled "Alli-

(*William F. Donohue—Cross.*)

4213

son's American Pictorial Handy Lexicon"? A. I don't remember what he called it.

x Q. 51. Do you remember changing the title of this book and inserting the name "Webster" in it? A. No.

x Q. 52. You do not deny that you did so, however? A. I don't know that we did; we have always had a book called "Webster's Handy American Dictionary."

4214

x Q. 53. Do you deny inserting the name "Webster" in the title of the dictionary which you bought from Allison?

MR. CARROLL: I object to the form of that question; the witness has already testified that he doesn't remember.

A. Well, we have for years had the Webster's Handy American Dictionary.

4215

MR. HALE: I object to the answer as not responsive and repeat the question. (Question repeated.)

x Q. 54. Do you deny inserting the name "Webster" in the title of the dictionary which you bought from Allison? A. No, I don't deny it, I don't know whether we did or not. We may now run those plates in our Handy American Dictionary, which we have always published and which was published for years.

4216

x Q. 55. You referred to your "Donohue's Vest Pocket Webster's" as one of your publications. Is that the book formerly published by Donohue Henneberry & Company and called "Vest Pocket Webster's Dictionary?" A. No, that is not the same book. That had 320 pages as I recollect it and this present one has 192.

(William F. Donohue—Cross.)

4217

x Q. 56. Any relation between these two Vest Pocket Websters? A. I don't think so.

x Q. 57. Don't you know that this Donohue & Henneberry's Vest Pocket Webster had been previously published under a name of which "Webster" formed no part?

MR. CARROLL: I object to any further questioning on this line as wholly incompetent irrelevant and immaterial.

4218

A. I don't know.

x Q. 58. Where did you get that book? A. The first Vest Pocket we bought from a man named White.

x Q. 59. It was a published book at that time? A. No.

x Q. 60. You bought it in manuscript? A. No we bought plates.

x Q. 61. The initials were J. D. White as you recollect? A. I forget the initials.

4219

x Q. 62. To refresh your recollection I will state to you that the Vest Pocket so-called Webster's dictionary we are speaking of was published by The Glenwood Company under the name of "American Pocket Pronouncing Dictionary" bearing the copyright notice 1893, by J. E. White. Do you deny now having purchased that book and republished it under the name of "Webster?"

4220

MR. CARROLL: I object to the voluntary statement by complainant's counsel of a state of facts which has been in no way proved, and move that this question be stricken out on that ground and as incompetent, irrelevant and immaterial.

(William F. Donohue—Cross.)

4221

A. I deny my having any knowledge that that book was ever published when we bought the plates.

x Q. 63. You have mentioned George W. Ogilvie as a publisher of dictionaries using the name "Webster." Have you ever been associated with him in that business? A. No, sir.

4222

x Q. 64. You have also mentioned the Saalfeld Publishing Company in this connection. You know, do you not, that they took over the Ogilvie publications and are now issuing them? A. Yes, sir.

x Q. 65. Do you know whether or not this Ogilvie or Saalfeld dictionary has not been published under various titles?

MR. CARROLL: Objected to as irrelevant and immaterial.

4223

A. Which one do you refer to, all of their dictionaries?

x Q. 66. Any of them. A. I think they have been published under various titles.

x Q. 67. Can you recall the several titles of the large or unabridged edition once published by Ogilvie?

MR. CARROLL: Objected to as irrelevant and immaterial.

4224

A. I don't recall them.

x Q. 68. Have you ever heard of books bearing the following titles:

"Webster's Imperial Dictionary."

"Webster's Universal Dictionary."

"Webster's Monarch Dictionary."

"Webster's Cosmopolitan Dictionary."

(William F. Donohue—Cross.)

4225

“Clarkson’s Standard American Dictionary?”

MR. CARROLL: Same objection.

A. I have heard of all of those except Cosmopolitan; I don’t recall that.

x Q. 69. And you know, do you not, that they are the same identical dictionary with different titles? A. I don’t know that they are identical, no, I never compared them.

4226

x Q. 70. What is your information on that subject? A. I have no information on that subject.

x Q. 71. As to any of the books named? A. I do not know that they are identical.

x Q. 72. Is your information sufficient to enable you to say that the dictionary proper, that is, the vocabulary part of these books is substantially the same? A. No, I have no information to say that.

x Q. 73. You have mentioned Reilly & Britton. You know, do you not, that they handle Webster’s dictionaries published by the Merriams, do you not? A. I do.

4227

x Q. 74. Why did you use the name “Webster” upon the “Vest Pocket” and “Handy American” Dictionaries which you published?

MR. CARROLL: Same objection.

A. They are based right on the original Webster’s dictionary.

4228

x Q. 75. To your knowledge? A. Well, I have never compared every word. I couldn’t tell to the best of my information and belief.

x Q. 76. Notwithstanding you purchased books previously published under another name?

4229

(William F. Donohue—Cross.)

MR. CARROLL: Same objection. I object to that question on the further ground that there has been no proof of any such facts but merely a statement by counsel for complainant and the testimony of the witness has been to the contrary.

4230

MR. HALE: The witness admitted publishing a dictionary purchased from Allison, and when complainant's time to offer evidence again arrives, any necessary connecting testimony will be offered.

A. Not to my knowledge, we never published any books previously published under another name.

4231

x Q. 77. You have spoken of large sales of your reprint edition of Webster's Dictionary of 1847. Through what channels was that book distributed? A. Newspapers, mail order houses, book stores, general merchants and used largely as premiums and sold through agents.

x Q. 78. At what range of prices was it sold?

MR. CARROLL: Same objection.

A. That is the reprint edition?

x Q. 79. Yes. A. That is they are sold as low as forty cents, cloth binding, to two dollars and one-half, sheep binding.

4232

x Q. 80. Are you connected in a business way in any manner with either the Syndicate Publishing Company or Cupples & Leon Company? A. No, sir.

x Q. 81. You do not handle any of the books that they publish? A. No, sir.

x Q. 82. Aside from the reprints and the large dictionary once published by Mr. Ogilvie, the

William F. Donohue—Re-Direct.

4233

other dictionaries using the name "Webster" are all small or abridged dictionaries; is that correct? A. I think that is correct.

x Q. 83. Have the dictionaries published by your house under the name "Webster" been anywhere officially approved as a standard authority to be used in the schools of any locality? A. You mean for a state adoption or city adoption?

x Q. 84. State or city adoption? A. No.

4234

RE-DIRECT EXAMINATION by Mr. Carroll:

R-D. Q. 85. Have you ever made any effort to have your books adopted for use in the schools of any city or state? A. No.

R-D. Q. 86. Why do you use the name "Donohue" in the title of your dictionary?

MR. HALE: Objected to as irrelevant and immaterial and as not calling for any relevant act, fact or declaration, but merely for the operation of the witness' mind.

4235

A. We use it for the benefit of the advertising and to identify our name with the dictionary.

R-D. Q. 87. You have just answered a question of Mr. Hale's relative to the publication of unabridged Webster's dictionaries, saying that aside from those of Ogilvie and the Merriam Company you thought other Webster's dictionaries were abridged and excepting also reprints. Have you ever heard of the Werner Company and of Webster's Encyclopedic Dictionary, published at Akron, Ohio? A. Yes, I have seen that book.

4236

R-D. Q. 88. Was that abridged or unabridged? A. Unabridged.

4237

(William F. Donohue—*Re-Cross.*)

R-D. Q. 89. How many years ago do you remember first seeing that Dictionary? A. I think about twelve years ago, or fourteen years ago. Auctioneers used to handle that a good deal.

RE-CROSS EXAMINATION by Mr. Hale:

4238 R x Q. 90. This Webster's Encyclopedic Dictionary was one of the reprint editions, was it not? A. I believe it was enlarged.

R x Q. 91. It had Dr. Fallows' Supplement, did it not, added to the 1847 edition? A. I think it did.

R x Q. 92. And except for the supplement it was a reprint edition? A. Yes, but it may have had other matter in it also.

4239 R x Q. 93. You said you used the name "Webster" in your books because they were based upon some other Webster's dictionary. What did you mean by the word "based"? A. The definitions were taken from the Webster's dictionary.

DEPOSITION CLOSED.

Oath and signature of witness waived.

RECESS TO TWO O'CLOCK.

4240

2 P. M.

IT IS HEREBY STIPULATED by and between the counsel for the respective parties that the deposition of Frank E. Wright shall be taken down stenographically by a skillful stenographer appointed by the Special Examiner and subse-

Frank E. Wright—Direct.

4241

quently transcribed and reduced to typewritten form. It is further stipulated that the oath and signature of said Frank E. Wright be and the same are hereby waived.

FRANK E. WRIGHT, a witness called by and on behalf of the defendants, testified as follows:

DIRECT EXAMINATION by Mr. Bean:

4242

Q. 1. Please state your name, age, residence and occupation? A. My name is Frank E. Wright; my age, 47; residence, 104 West 70th Street, New York City; occupation, publisher.

Q. 2. What position, if any, do you hold in the Syndicate Publishing Company? A. That of president.

Q. 3. How long have you been in the publishing business and what kind of works have you published? A. I have been in the business 4243 twenty-six years; have published dictionaries, encyclopedias, histories, bibles, religious books, juvenile books and various other publications.

Q. 4. How long have you been connected with the Syndicate Publishing Company? A. The Syndicate Publishing Company of Pennsylvania was organized in 1893 by myself. We continued business in Philadelphia until I think the fall of 1908, when the business was moved to New York, 4244 and in the year 1910 the Syndicate Publishing Company of the State of New York was organized for the purpose of taking over the business of the Pennsylvania corporation.

Q. 5. Have you always been president of the present corporation? A. Yes, and the former one, too.

Frank E. Wright—Direct.

4245

Q. 6. Did the Syndicate Publishing Company at some time purchase certain plates of a dictionary from one Klopsch, and if so when, and will you make a general statement regarding such purchase? A. As president of the Syndicate Publishing Company, I think in the month of July, 1908, I purchased from Louis Klopsch, of New York City, the plates, copyright and other property connected with the book called "The Crown

4246

Dictionary of the English language, based upon the unabridged dictionary of Noah Webster." At that time the Syndicate Publishing Company desired to secure the plates of the above mentioned dictionary primarily for use in connection with the plates of an encyclopedia which had also been published by Klopsch and they were uniform in size. It was published by Klopsch and was called the "Crown Encyclopedia" the same as the dictionary, although the plates of the encyclopedia were not purchased from Klopsch.

4247

Q. 7. What, if anything, did the Syndicate Publishing Company do with the plates of this dictionary after their purchase? A. We used the plates of the dictionary in connection with the plates of the encyclopedia making a set of books of eight volumes, under the title "The New Century Reference Library" of which two volumes constituted the dictionary. We also published an edition of the dictionary in one volume under the title "Webster's New Illustrated Dictionary."

4248

Q. 8. Will you state whether or not the dictionary published by you under such title was still described as based upon the unabridged dictionary of Noah Webster?

MR. HALE: Objected to unless the book is produced.

Frank E. Wright—Direct.

4249

A. It was.

Q. 9. Is this book which I show you a copy of the dictionary so published by you in Philadelphia in 1908? A. To the best of my knowledge and belief, it is a copy of the first edition.

(By consent of counsel a copy of the title page is copied into the record, and it is as follows:)

WEBSTER'S
NEW ILLUSTRATED
DICTIONARY

4250

OF THE
ENGLISH LANGUAGE
Based upon the Unabridged Dictionary

OF
NOAH WEBSTER, LL. D.

4251

Revised and brought up to date in accordance with the most recent eminent English and American authorities, and including the following special features:

Origin, Composition and Derivation of the English Language, Principles of Grammar, Simplified Spelling, Synonyms and Antonyms, Foreign Words and Phrases, Weights and Measures, Coins, Language of Flowers and Gems, etc., etc.

4252

Philadelphia.

Syndicate Publishing Company.

1908.

Frank E. Wright—Direct.

4253

Q. 10. Did you afterwards publish the same dictionary with the title changed, and if so, what was the new title? A. "Webster's New Standard Dictionary, Illustrated."

4254

Q. 11. Why was the name or title of the dictionary thus changed for a time? A. When we first published the dictionary under the title "Webster's New Illustrated Dictionary" it was sold principally to the book trade, premium houses, periodicals, and so forth. It was used extensively as a premium with newspapers. We found, when we began advertising this title, extensively, in daily newspapers, that the books in the bookstores and other places militated more or less against the sale by newspapers, causing more or less confusion and trouble. As a result we deemed it advisable to adopt the title "Webster's New Standard Dictionary, Illustrated" for our newspaper business, which was done and continued until we felt that the stock of books in the stores had been practically exhausted, when we began the further use of Webster's New Illustrated Dictionary in conjunction with Webster's New Standard Dictionary, Illustrated.

4255

4256

Q. 12. State, if you please, why after the acquirement of the copyright, you adopted titles for the dictionaries including the name "Webster"? A. Simply and only because the book was based upon the unabridged dictionary of Noah Webster, and therefore that title was more appropriate.

Q. 13. At the time of your first publication of the dictionary with the name "Webster" in the title, were you aware of the fact that the Merriam

Frank E. Wright—Direct.

4257

Company was publishing Webster's dictionaries? A. I was.

Q. 14. Did you shortly after the publication of the dictionary in 1908 receive any communications from the Merriam Company? A. We did.

On or about March 21st, 1909, we received a letter from the Merriam Company.

IT IS HEREBY STIPULATED that the following letters passed between the parties and were received at or about their respective dates; 4258

(Copy)

March 20, 1909.

SYNDICATE PUBLISHING CO.,
234 & 236 South 8th Street,
Philadelphia, Penn.

4259

Gentlemen:

Please send us one copy Webster's New Illustrated Dictionary, Cloth, \$2.00, also one copy of same in leather, red edge, list \$3.00, with bill at best discount, and oblige,

Yours truly,

G. & C. MERRIAM CO.

4260

4261

Frank E. Wright—Direct.

(COPY)

March 22, 1909.

MESSRS. G. & C. MERRIAM COMPANY,
Springfield, Mass.

Gentlemen:

4262

We have your valued favor of the 20th requesting a copy of Webster's New Illustrated Dictionary in cloth, and also one in leather.

We are sending these books to day by prepaid express and while you request bill at best discount, yet we refrain from sending the bill and ask that you accept the volumes with our compliments.

If we can be of any further service to you, or if there is anything about these books about which you wish information, please let us know and we will be glad to furnish same promptly.

4263

Thanking you for your uniform courtesy, we are,

Yours very truly,

SYNDICATE PUBLISHING COMPANY,
F. E. WRIGHT,
President,

(COPY)

March 23, 1909.

4264

SYNDICATE PUBLISHING COMPANY,
12 & 14 West 32nd Street,
New York, N. Y.
MR. F. E. WRIGHT, Pres.,

Dear Sir:

We have the two copies of "Webster's New Illustrated Dictionary" and have examined the

Frank E. Wright—Direct.

4265

same with a good deal of interest. The body of the book looks suspiciously like a book formerly issued by another concern (and which by the way is in one of our suits) but of course we would be wrong in supposing such to be the case. The cuts you have inserted add greatly to the appearance of the book.

We thank you for the two copies sent and are very glad to add them to our collection of dictionaries.

4266

Very truly yours,
G. & C. MERRIAM CO.

(Copy)

March 24, 1909.

MESSRS. G. & C. MERRIAM CO.
Springfield, Mass.

4267

Gentlemen:

We have your letter of the 23rd, acknowledging the two copies of Webster's New Illustrated Dictionary sent you a few days ago.

We note the fact that it seems to you the body of the book looks suspiciously like a book formerly published by another concern and which is in one of your suits. This is a very great surprise to us and we would like to know where we stand.

4268

We purchased the electrotype plates of this book from Louis Klopsch, publisher of the Christian Herald of this city, and whom we understood actually set up the book for his own exclusive use. If there is any suit on with anybody on account of this book we are innocent parties in the matter

Frank E. Wright—Direct.

4269

and would be under a great obligation to you for any information that would tend to show we have been dealt with unfairly.

The book is having a very excellent sale both to the trade and to newspapers who are using it quite largely as a premium.

Trusting we may hear from you again at your convenience we are

4270

Yours very truly,
Syndicate Publishing Co.,
F. E. WRIGHT, President.

Dic, FEW—GH.

(Copy.)

April 2, 1909.

SYNDICATE PUBLISHING Co.,
12 & 14 West 32nd St.,
New York City.

4271

Dear Sirs:

Yours of the 24th ult. was duly received but various causes have prevented an earlier reply.

Of course you know that your so-called Webster's New Illustrated Dictionary has been published under a variety of names, and when we wrote on March 23rd we were under the impression that the book under one of its names was included in one of the suits, but we cannot easily verify this, and we may be mistaken.

4272

We shall doubtless have occasion to write you again about your book, but we shall ask nothing but what is proper and reasonable under the court

Frank E. Wright—Direct.

4273

decisions, and you will, of course, expect to grant no less.

Yours truly,
G. & C. MERRIAM CO.

Q. 15. Did you or not send to the Merriam Company on or about March 22d, 1909, copies of your dictionary as referred to in your letter of that date? A. I did.

4274

Q. 16. Between April 2d, 1909, and October 5th, 1911, did you or the Syndicate Publishing Company, so far as you know, receive any letter or any communication of any kind from the Merriam Company regarding your Webster's New Illustrated Dictionary otherwise entitled "Webster's New Standard Dictionary"? A. Not to my knowledge.

Q. 17. In view of the correspondence which had passed between your company and the Merriam Company and from all the facts within your knowledge, state whether or not during that period you believed or had any idea that the Merriam Company claimed or sought to maintain that in the publication of your dictionary you or your company was in any way infringing upon their rights as publishers of Webster dictionaries? A. No.

4275

Q. 18. To what extent and how during that period was the Syndicate Publishing Company promoting the sale of its dictionary and advertising it and establishing the basis for its distribution? A. By the sale to the bookstores, premium houses, weekly and monthly periodicals and through daily newspapers, and any other channels which seemed to have money enough to buy the goods.

4276

4277

Frank E. Wright—Direct.

Q. 19. About when were plans formulated and carried into effect for the distribution of the dictionary through daily newspapers? A. During the year 1910 extensive plans were made to inaugurate our daily newspaper campaign which began the early part of 1911. Since then until now the campaign has been very active.

4278

Q. 20. When, if ever, after their letter of April 2d, 1909, did the Merriam Company again communicate with you about your dictionary? A. October 4th, 1911, is the date of their letter.

IT IS HEREBY STIPULATED that the following letters passed between the parties and were received at or about their respective dates:

(Copy.)

4279

Seal.	G. & C. MERRIAM COMPANY,
Webster's New	(Established in 1831.)
International Dictionary.	Publishers of
	Genuine Webster's Dic-
	tionaries since 1843.

Just issued.

400,000 words and phrases,
6,000 Illustrations, 2,700 pages.

Springfield, Mass., October 4, 1911.

4280

Received Oct. 5, 1911.

SYNDICATE PUBLISHING COMPANY,
12 West 32nd St.,
New York City.

GENTLEMEN:

Your advertisement and sale of a dictionary entitled "Webster's New Standard Dictionary

Frank E. Wright—Direct.

4281

—Illustrated” has been called to our attention, and we desire to give you formal notice that such advertisement and sale is a plain violation of our rights as the prior and long established publishers of the well known “Webster’s” dictionaries. Your book and advertisements are well calculated to deceive the public and lead them to buy your book in the belief that it is one of our books. This is unfair competition, and we are advised by our counsel that it is actionable. The Courts have so declared, in several cases, and we have other actions pending against other like infringers upon our rights. We shall insist that our rights, as declared by the courts, be respected.

4282

Trusting that you will at once desist from any further violation of our right, and awaiting any explanation you care to make, we remain,

Yours truly,

G. & C. MERRIAM Co.

4283

By O. M. BAKER,
President.

(Copy.)

Oct. 6, 1911.

G. & C. MERRIAM COMPANY,
Springfield, Mass.

4284

GENTLEMEN:

We have your letter of the 4th inst., in which you say:

“Your advertisement and sale of a dictionary entitled ‘Webster’s New Standard Dictionary—Illustrated,’ has been called to our attention, and we desire to give you for-

4285

Frank E. Wright—Direct.

4286

mal notice that such an advertisement and sale is a plain violation of our rights as the prior and long established publishers of the well known 'Webster's' dictionaries. Your book and advertisements are well calculated to deceive the public, and lead them to buy your book in the belief that it is one of our books. This is unfair competition and we are advised by our counsel that it is actionable. The courts have so declared, in several cases, and we have other actions pending against other like infringers upon our rights. We shall insist that our rights, as declared by the courts, be respected.

"Trusting that you will at once desist from any further violation of our rights, and awaiting any explanation you care to make, we remain."

As a preliminary to answering the above letter, we would call your attention to the following:

4287

(a.) Your letter of March 20, 1909, in which you order one copy of each of the cloth and leather Bindings of "Webster's New Illustrated Dictionary";

(b.) Our letter of March 22, 1909, in which we say:

4288

"We are sending these books to-day by prepaid express, and while you request bill at best discount, yet we refrain from sending the bill and ask that you accept the volumes with our compliments.

"If we can be of any further service to you, or if there is anything further about these books about which you wish information, please let us know and we will be glad to furnish same promptly."

Frank E. Wright—Direct.

4289

(c) Your letter of March 23rd, 1909, in which you say:

"We have the two copies of 'Webster's New Illustrated Dictionary,' and have examined the same with a good deal of interest. The body of the book looks suspiciously like a book formerly issued by another concern (and which by the way is one of our suits) but of course we would be wrong in supposing such to be the case. The cuts you have inserted add greatly to the appearance of the book.

4290

"We thank you for the two copies and are very glad to add them to our collection of dictionaries."

(d) Our letter of March 24th, 1909, in which we say:

"We note the fact that it seems to you the body of the book looks suspiciously like a book formerly published by another concern and which is in one of your suits. This is a very great surprise to us and we would like to know where we stand.

4291

"If there is any suit on with anybody on account of this book we would be under a great obligation to you for any information that would tend to show that we have been dealt with unfairly.

4292

"The book is having a very excellent sale both to the trade and to newspapers who are using it quite largely as a premium."

(e) Your letter of April 2, 1909, in which you say:

4293

Frank E. Wright—Direct.

"Of course you know that your so-called 'Webster's New Illustrated' has been published under a variety of names, and when we wrote on March 23rd, we were under the impression that the book under one of its names was included in one of the suits but we cannot easily verify this, and we may be mistaken.

4294

"We shall doubtless have occasion to write you again about your book but we shall ask nothing but what is proper and reasonable under the court decisions, and you will, of course, expect to grant us no less."

4295

Referring to your letter of the 4th inst., would say, that in March, 1909, we were perfecting plans for an original and extensive advertising campaign of our book, and as it is our settled policy to avoid infringing the rights of others, and because we were desirous of avoiding the expenditure of large sums without taking all reasonable precautions against loss which might result by reason of the interposition of obstacles to our enterprise, we wrote you and told you that "we would like to know where we stand." As we received nothing further from you on the subject we inferred (justly, we think) that you did not consider our publication an infringement on any of your rights.

4296

Under these circumstances we should be glad to have you point out to us in what particular respects our advertisement and sale (or the advertisement and sale of the Springfield Union) "is a plain violation of your rights, or that such advertisement and sale is unfair competition."

Frank E. Wright—Direct.

4297

It is needless to say that your reply to above will have our careful and immediate attention.

Yours very truly,
SYNDICATE PUBLISHING COMPANY,
President.

FEW—M

(Copy)

Seal. G. & C. MERRIAM COMPANY,
Webster's New (Established in 1831.)
International Dictionary. Publishers.
Genuine Webster's Dictionaries Since 1843.
Just issued.
400,000 words and phrases.
6,000 illustrations. 2,700 pages.

4298

SPRINGFIELD, MASS., October 17, 1911.

Received

4299

October 18, 1911.

SYNDICATE PUBLISHING Co.,
12 West 32nd Street,
New York, N. Y.

Gentlemen:

When we had the pleasure of an interview with your Mr. Swift, we cited one or two cases in which the principle of unfair competition had been decided by the court. Mr. Swift thought he would like to look those up, or have his lawyers look them up.

4300

As there are a great many cases which bear on this principle, we suggest that you or your attorneys confer with our attorney, Mr. W. B. Hale

4301

Frank E. Wright—Direct.

of Judson & Hale, 40 Wall Street, for any further consideration of this subject which you desire.

Very truly yours,
G. & C. MERRIAM CO.

(COPY)

October 19, 1911.

4302

G. & C. MERRIAM CO.,
Springfield, Mass.

Gentlemen:

We have your letter of the 17th inst., and it has been referred to our attorneys, Messrs. Strong and Cadwalader, 40 Wall Street, New York City, and Mr. George F. Bean, 176 Federal Street, Boston, Mass.

4303

It is the intention to change the title page of our Dictionary so that it will include the following: "This Dictionary is not published by the original publishers of "Webster's Dictionary", or by their successors"; to change the advertisements of it so that they will include: "This dictionary is not published by the original publishers of Webster's Dictionary, or by their successors, but by the well-known Syndicate Publishing Company of New York City"; and in the future, as in the past, to do anything that will, in our opinion, prevent the public from confounding our Dictionary with any dictionary published by you or any other concern.

4304

These changes will be displayed in such a manner as to leave absolutely no ground for any claim that either the book or the advertisements are calculated to deceive the public and lead them to

Frank E. Wright—Direct.

4305

buy our book in the belief that it is one of your books.

Concerning the claim that our Dictionary has no connection with the so-called Webster family, and that it never knew the name of Webster until 1908, would say that the title page of the first edition issued in 1904, printed from type set in the United States, and not from plates made in England, as claimed by you in your conversation with our Mr. Swift, distinctly sets forth the fact that it is "based upon the Unabridged Dictionary of Noah Webster", and in the application for the copyright of that edition, this is fully set forth. No one familiar with the subject would claim that our Dictionary is not based upon the work of Noah Webster.

4306

Yours very truly,

SYNDICATE PUBLISHING COMPANY.

President.

4307

Q. 21. State whether or not shortly after the receipt by you of the Merriam Company's letter of October 4th, 1911, you caused a representative of your company to visit the Merriam Company at Springfield and if so whom and for what purpose? A. I caused Mr. Swift a representative of our company to go to Springfield and see the Merriams shortly after the receipt of their letter of October 4th, 1911, to ascertain in what manner we were violating any of their rights in the publication and sale by advertisement and otherwise of our Webster's New Illustrated Dictionary or Webster's New Standard Dictionary.

4308

Q. 22. In view of the correspondence between the parties, and after Mr. Swift's visit to Spring-

Frank E. Wright—Direct.

4309

field and his report to you of the results of that visit, state whether or not up to the time of the institution of this suit you understood that the Merriam Company claimed that in the publication of your dictionary you were infringing upon their rights? A. Not otherwise than as stated in their letter of October 4th.

4310

Q. 23. State whether or not so far as you know, the Merriam Company, either by letter or otherwise, had notified you or your Company of their purpose to institute suit against your company? A. They did not. The first knowledge we had of any suit was when the suit was entered.

Q. 24. In your letter of October 19th, 1911 to the Merriam Company you said that it was your intention to change the title page of your dictionary so that it would include the following:

4311

“This Dictionary is not published by the original publishers of Webster’s Dictionary, or by their successors.”

and to change all your advertisements of the dictionary so that they would include the same language. Will you state whether or not you in fact did change your title page and advertisements in accordance with what you wrote on that date? A. We did.

4312

Q. 25. Did you or not give any instructions to your advertising manager embodying this change in the advertisements? A. I did, both by letter and verbally.

Q. 26. Did you on October 9th, 1911, cause to be delivered to Mr. Johnson, your advertising manager, a letter signed with your name by your order reading as follows:

Frank E. Wright—Direct.

4313

"Mr. James F. Johnson,
Advertising Department.

Dear Sir:

To overcome any possibility of the public gaining the impression that our dictionary is published by any other than ourselves, or that it is the same as any other book previously published, you will at once place in every announcement or advertisement used by each and every one of the papers handling our dictionary a prominent statement to the effect that our dictionary is not published by the original publishers of Webster's Dictionary or by their successors.

4314

Very truly yours,

SYNDICATE PUBLISHING COMPANY,

(Signed) F. E. Wright,

President,

By A. L. S."

A. Yes.

4315

Q. 27. What if any instructions or actions did you take with reference to the title pages of your dictionary to incorporate the language stated?

A. At that time I gave definite and positive instructions to my manufacturing department as well as to other officers and employees to insert or have inserted new title pages containing the cautionary notice so called on the title page of both Webster's New Illustrated Dictionary and Webster's New Standard Dictionary Illustrated, in all books, bound or in process of manufacture that could be reached by us and also to have the cautionary notice inserted in our display advertisements as we were not desirous of having the public buy our book in the belief that they were getting a book of the Merriam's.

4316

4317

Frank E. Wright—Direct.

Q. 28. Beside putting the cautionary notice upon the title page of your dictionary, what other precaution, if any, did you take to identify the book with your concern as the publisher thereof?

A. And also had the name "Syndicate Publishing Company" stamped in gold on the backbone of the books.

4318

MR. BEAN: I offer as an exhibit a copy of "Webster's New Illustrated Dictionary with the United States Census and Maps" in the form in which said dictionary was being published and distributed at the date of the institution of the suit of the Merriam Company against the Syndicate Publishing Company.

4319

IT IS HEREBY STIPULATED that the exhibit referred to is the dictionary offered in connection with the affidavit of the witness and now on file in the office of the Clerk, marked "Defendant's Webster's New Illustrated Dictionary, with title page as adopted in October, 1911, exhibit with Wright Affidavit."

4320

Q. 29. In the bill of complaint in this suit a statement is made that your company has omitted the 1904 copyright notice from its dictionaries and has substituted a copyright notice for 1911 in place thereof and has placed the date 1911 at the foot of the title page of the dictionary, "For the purpose of concealing the true origin and identity of said dictionary" and leading the public to think that it is a new dictionary first published in the year 1911, and that it is one of the dictionaries published by the complainant in this suit. State, if you please, and if you know, the reason why

Frank E. Wright—Direct.

4321

the 1904 copyright of the dictionary which was issued to Klopsch was omitted from your recent editions of your dictionary? A. First, because I did not regard the copyright on the text matter of the dictionary of any particular or special value; secondly, because Klopsch, before selling the plates to us, had sold a set of plates to another concern, which in turn sold its books to the same class of people as ourselves. Our copyright of 1908 was only intended to cover the title and such new matter, illustrations and so forth as had been added to our edition of the book, but gave us an opportunity of differentiating our edition from that of the other concern, and at or about the same time we took the name of Edward T. Roe off of the title page as editor for the same reasons as above.

4322

Q. 30. State whether or not in the omission of the 1904 copyright notice and the date line on the title page you had any purpose of concealing the origin and identity of your dictionary? A. Absolutely none.

4323

Q. 31. State, if you know, what the practice is among publishers as to the date line on the title page? A. If you mean by date line the imprint on the title page I would say that the practice differs, according to men and books. I think I am within the rule by saying that it is usual to use the following words:

4324

“Published by Syndicate Publishing Company, New York,”

either with or without the year date, according to the pleasure of the publisher.

Q. 32. Have you observed the practice of the Merriam Company in this regard, especially with

Frank E. Wright—Direct.

4325

reference to their dictionary entitled "Webster's Condensed Dictionary" first copyrighted in 1884? A. I have. It appears that on the back of the title page; the Merriam Company carry copyright notices of the year 1884, and the year 1906 and the year 1909, but on the front of the title page they have the year 1911, thereby misleading the public in the belief that it is getting a new dictionary published in 1911, when as a matter of fact the public gets a dictionary originally published twenty-eight years ago with but slight revisions, as is evident by the insertion of an insert containing words and definitions on the subject of aviation and so forth, which are by no means in their proper alphabetical order.

4326

4327

MR. HALE: So much of the answer as follows the words "the year 1911" and beginning with the word "thereby" is objected to and motion is made to strike it out on the following grounds:

First, as not responsive.

Second, as incompetent, irrelevant and immaterial.

Third, as a mere conclusion and opinion of the witness.

MR. BEAN: I offer a copy of said Webster's Condensed Dictionary.

4328

IT IS HEREBY STIPULATED that the dictionary heretofore offered as an exhibit with the affidavit of the witness and marked "Complainant's Webster's Condensed Dictionary Exhibit with Wright Affidavit" now on file in the office of the Clerk of the Court, shall be accepted as the dictionary now offered by the witness.

Frank E. Wright—Cross.

429

Q. 33. When did you begin advertising Webster's New Illustrated Dictionary approximately?

A. As soon as the publication of the book.

Q. 34. What did that advertising consist of?

A. Circular letters, advertising in periodicals and weekly papers.

Q. 35. Will you state approximately when you began your newspaper campaign? A. In the early part of 1911, February.

Q. 36. In what places and as far as you can remember in what newspapers was this campaign carried on? A. Between three and four hundred towns and cities in the United States and Canada.

4330

Q. 37. How were these campaigns usually carried on by the newspapers? A. By the insertion of full pages and fractional pages of display advertising, space called coupons, occupying some two hundred and fifty lines, and reading notices, appearing frequently on first pages as well as in other parts of the paper and occupying from a column down to a hundred lines or thereabouts.

4331

Q. 38. How long did these campaigns last usually in each place? A. From four to six months and occasionally a shorter period.

Q. 39. Can you state what the cost of the advertising thus given to you at the usual rates would have amounted to? A. I can only give an approximate answer, and to the best of my knowledge and belief, the amount would exceed \$500,000 up to and including the contracts now in operation, or about to start.

4332

DIRECT EXAMINATION CLOSED.

CROSS EXAMINATION by Mr. Hale:

x Q. 40. I notice in the copy of your dictionary

Frank E. Wright—Cross.

4333

which you first issued that it contains the date 1908, in the publisher's imprint. I also notice that in the volume issued in the year 1911, the date in the imprint is 1911. Was that change of date made in accordance with any custom prevailing among publishers?

MR. CARROLL: I object to that as having been already answered.

4334

A. The only custom I know of among publishers is that some of them put the year date in the imprint and some do not. It is purely a matter of choice.

x Q. 41. By year date in your last answer, do you mean the date of printing of the particular volume? A. I mean just what I said.

x Q. 42. What do you mean by year date? A. The figures constituting the calendar year appearing occasionally on the bottom of the title page.

4335

x Q. 43. Where the date is used, is it customary to change it each year? A. It is.

x Q. 44. Has there at any time been any business connection between the Syndicate Publishing Company and Cupples & Leon Company who publish this same book under a different title? A. No.

x Q. 45. In your letter dated October 6th, 1911, you say, referring to a letter written by you in March, to the Merriam Company:

4336

"We wrote you and told you that we would like to know where we stand. As we received nothing further from you on the subject, we inferred (justly we think) that you did not consider our publication an infringement of any of your rights."

You were referring here to your letter dated March 24th, 1909, were you not? A. Yes.

Frank E. Wright—Cross.

4337

x Q. 46. You did, however, thereafter receive the letter from the Merriam Company dated April 2nd, 1909, which has been read into the record?

A. I did.

x Q. 47. Your statement above quoted, that you "received nothing further" upon the subject is therefore not strictly accurate? A. I maintain that it is accurate.

x Q. 48. How can that be accurately true since you have just admitted that thereafter you did receive the letter of April 2nd, 1909?

4338

MR. CARROLL: Objected to as calling for an opinion of the witness, as argumentative and on the ground that the correctness or inaccuracy of the letters is best determined by the Court from an inspection of the letters themselves.

A. In my letter of March 24th, 1909, to the Merriam Company I referred specifically to any suit which anybody may bring against us on account of the dictionary, and stated further that we would be under obligation to the Merriam Company if it would give us any information that would tend to show that we had been dealt with unfairly. It does not appear from reading the letter of April 2nd, 1909, that they had any information to give, their only statement being "that they would doubtless have occasion to write us again about our book, when they would ask nothing but that which was proper and reasonable and which we would of course grant."

4339

4340

x Q. 49. You have failed to note the reference to Court decisions contained in that letter, have you not? A. I have not; the letters explain themselves.

x Q. 50. What, if any, answer did you make to

Frank E. Wright—Cross.

4341

the letter of April 2nd, 1909, and prior to the Merriam letter of October 4th, 1911 ? A. None.

x Q. 51. And what communication of any sort in that period did you have with the Merriam Company in regard to that subject matter ? A. None, to my knowledge.

x Q. 52. Did you understand the reference to Court decisions contained in that letter ? A. I understand the meaning of the language.

4342

x Q. 53. What did you understand the reference to Court decisions in that letter to mean ? A. I understood that there had probably been some Court decisions or decision which the Merriam Company considered in their favor and that would bear upon the publication of Webster's dictionary by anybody.

4343

x Q. 54. Did you have any knowledge or information at or prior to that time of any Court decisions in litigations by the Merriam Company involving the name "Webster" as applied to dictionaries ? A. No definite information, but I had understood that there had been a decision—one or more decisions—respecting their right, but I never knew the exact nature of the same.

x Q. 55. Did you know of any court proceedings or decisions in a litigation with one George W. Ogilvie ? A. I knew of the law suit, but did not know the exact results at that time.

4344

x Q. 56. You are referring now to the date of that letter, April 2nd, 1909 ? A. Yes.

x Q. 57. Did you sign the defendant's answer in this case ? A. Yes.

x Q. 58. In that answer, and referring to the suit between the Merriam Company and Ogilvie in the First Circuit, I find the following language :

Frank E. Wright—Cross.

4345

"Defendant, further answering, says that the result of said suit in the First Circuit and the fact of the issuance of said injunction and that it was in force against this complainant was known to the officers of this defendant as well as the fact that since its issuance it has continued and still remains in force, and was in full force and operation at the date of the institution of this suit."

You signed the answer with that statement in it?

4346

MR. CARROLL: I object to these questions on the ground that all this matter has, by order of the Court, been stricken from the answer.

A. Yes.

x Q. 59. And that statement is true? A. It is, and in making this answer I refer to the letter of April 2nd, 1909. At the time this suit was instituted I was fully acquainted with the facts concerning the decisions of the Court referred to.

4347

Adjourned to Monday, May 6th, 1912, at 1:30 o'clock P. M.

NEW YORK, Monday, May 6th, 1912.

1:30 O'Clock P. M.

Met pursuant to adjournment.

4348

Present: The Examiner; William B. Hale, Esq., for complainant; Lauren Carroll, Esq., of counsel for defendant Syndicate Publishing Company and for defendant Cupples & Leon Co.

4349 Adjourned to Friday, May 10th, 1912, at 12 o'clock. At the hearing pursuant to this adjournment the deposition of Albert L. Swift was begun. Said deposition appears at page of this record.

At the close of the hearing on May 10th, 1912, adjournment was taken to Thursday, May 16th, 1912, at 1:30 P. M.

4350

NEW YORK, Thursday, May 16th, 1912.
1:30 O'Clock P. M.

Met pursuant to adjournment.
Present: Counsel as before.

FRANK E. WRIGHT, resumed.

CROSS EXAMINATION by Mr. Hale continued:

4351

x Q. 60. Was it the Syndicate Publishing Company of Pennsylvania or the New York Company that purchased the copyright and plates of the Crown dictionary? A. Pennsylvania.

x Q. 61. Did the Pennsylvania Company begin the publication of that dictionary under the name "Webster?" A. Webster's New Illustrated Dictionary.

4352

x Q. 62. This was done by the Pennsylvania Company, however? A. It was.

x Q. 63. What items of property were thus purchased in connection with this dictionary? A. Electrotype plates, illustrations and copyrights.

x Q. 64. Did you purchase or acquire any sheet stock or bound volumes at that time? A. No.

x Q. 65. Did you publish the book for any length of time under its original name of "Crown Dictionary?" A. No.

Frank E. Wright—Cross.

1353

x Q. 66. In other words, you immediately changed its name? A. Our first edition was published under the title "Webster's New Illustrated Dictionary."

x Q. 67. Aside from the change of name and the adoption of the name "Webster" as part of the title, what other changes did you make in the book or any part of it in your first publication of it? A. The revision which was made in the first edition consisted chiefly of the insertion of what we regarded as new and important words, together with the additions of illustrations, full page, half tone, two colored charts and colored plates. 4354

x Q. 68. About how many of what you term new and important words were inserted in that edition? A. I could not answer the question because I don't know.

x Q. 69. Who does know? A. I do not know. 4355

x Q. 70. Who did the work of adding them? A. I could not tell you; I was not in good health at the time.

x Q. 71. Under whose supervision was it done? A. I really could not tell who actually did that work.

x Q. 72. Such words as were inserted were inserted by making what may be termed plate corrections? A. Yes, sir.

x Q. 73. The illustrations, charts and colored plates which you say were also inserted at that time were made on separate sheets and placed in the book without disturbing the paging of the book; is that correct? A. Without disturbing the text of the pages, the type pages. 4356

x Q. 74. You answer the question yes, then? A. I have answered it.

4357

Frank E. Wright—Cross.

x Q. 75. How long did your company continue to publish the book in that form without further changes? A. I could not say for the reason that it has been customary with us to make additional changes with pretty nearly every edition.

x Q. 76. Changes of what character? A. Insertion of new words.

x Q. 77. In the same manner as the other insertions to which you have testified? A. Yes.

4358

x Q. 78. How many such words have been inserted? A. I cannot tell.

x Q. 79. Who has done this work of insertion? A. It has been done by several people and I really don't know who they were. I know several of them.

x Q. 80. Was it done by any of the regular employees of the Syndicate Publishing Company? A. Yes, I would say that the man who had that in charge was our treasurer.

4359

x Q. 81. His name, please? A. Mr. Delaney.

x Q. 82. Is he still with the company? A. Yes.

x Q. 83. And he had charge of the literary work? A. No, sir, he did not have charge of the literary work; he had charge of the inserting of those words.

x Q. 84. You mean the manufacturing detail of it? A. Yes.

4360

x Q. 85. Who had charge and is responsible for the literary work of making these insertions? A. Professor Charles Morris, of Philadelphia, had to do with it; Charles Leonard Stuart, of New York, had to do with it, and we had something to do with it as the Syndicate Publishing Company. We did not always have one of the other parties do the literary work.

Frank E. Wright—Cross.

4361

x Q. 86. What do you mean by the Syndicate Publishing Company did some of it? A. For instance, I might authorize a certain change or somebody else might authorize a certain change; that would be unimportant and immaterial, however.

x Q. 87. During what period was Mr. Morris' connection with these changes? A. He was our editor for a number of years in Philadelphia.

x Q. 88. When did he cease to act as such? A. When we came to New York.

4362

x Q. 89. When did Mr. Stuart's connection begin and end with this detail? A. I think it was in 1908 through to 1910. I am a little hazy on that because I was not in the office.

x Q. 90. Has anyone else had to do with these literary changes or additions to your book? A. Not to any extent.

x Q. 91. Do you know the address of Mr. Stuart and Mr. Morris; if so, please give it? A. I cannot give you the street address of Mr. Morris. He lives in Philadelphia somewhere on Spring Garden Street, I think. I do not know the home address of Mr. Stuart in New York.

4363

x Q. 92. At any time up to the beginning of this suit, has the Syndicate Publishing Company regularly maintained an editorial department with editors regularly employed? A. Yes, for the past several months Dr. Harry Thurston Peck has been our editor, regularly employed, regularly paid.

4364

x Q. 93. Have the several gentlemen whom you have named had assistants in this work? A. I don't think so; with the exception of Dr. Peck who has had several assistants.

x Q. 94. Was Dr. Peck's editorial work confined to revision subsequent to the beginning of

4365

Frank E. Wright—Cross.

this suit? A. He was with us long before the suit was instituted and is still with us.

x Q. 95. I mean, did Professor Peck make any contributions to any editions published before the institution of this suit? A. I am quite sure he did.

x Q. 96. Do you know what they were? A. No.

4366

x Q. 97. How long did you continue to use the plates purchased from Louis Klopsch for the printing of this book with the corrections as testified to by you? A. Those plates and duplicates thereof were used until our new Websterian dictionary was ready.

x Q. 98. That is to say until after the institution of this suit in November, 1911? A. Yes.

x Q. 99. Whose idea was it to change the title and the title page of the Crown Dictionary to a title including the name "Webster?" A. Mine; as well as other officers of the company.

4367

x Q. 100. I show you a copy of the Crown Dictionary as published by Louis Klopsch and ask you to read into the record the title page thereof as you did in the case of your own first edition of it; the book shown is the book heretofore offered in evidence and marked Complainant's Exhibit A, referred to by H. W. Baker, J. A. Ex'r., February 19th, 1912? A.

When in doubt consult the Crown.

4368

CROWN
DICTIONARY
OF THE
ENGLISH LANGUAGE

Based upon the unabridged dictionary
of Noah Webster, LL. D. revised and

Frank E. Wright—Cross.

4369

brought up to date in accordance with the most recent eminent English and American authorities.

BY

EDWARD T. ROE, LL. B.

With appendix containing synonyms and antonyms, foreign phrases, language of flowers, coins, weights, and measures, differences in time, etc., etc.

4370

THE CHRISTIAN HERALD

LOUIS KLOPSCH, PROPRIETOR.

NEW YORK.

x Q. 101. How much did you pay for the property, copyright and plates acquired from Louis Klopsch in connection with this dictionary?

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial.

4371

A. I decline to answer.

MR. HALE: The Examiner is requested to certify this question to the Court for a ruling as to the propriety of the question, and the duty of the witness to answer it.

x Q. 102. You have testified in your direct examination that your reason for changing the title of the Crown dictionary and adopting a title including the name Webster was: "Simply and only because the book was based upon the unabridged dictionary of Noah Webster, and therefore that title was more appropriate." What book or the edition of what year did you refer to in that ans-

4372

Frank E. Wright—Cross.

4373

wer by the phrase, "The unabridged dictionary of Noah Webster"? A. The 1847 edition.

x Q. 103. Published by G. & C. Merriam Company, the complainants in this case? A. I don't know who published it.

4374

x Q. 104. What did you mean in that answer by the phrase "Based upon the unabridged dictionary of Noah Webster"? A. I meant that our book was made from the unabridged edition of Noah Webster, with the changes and additions which the book itself presents.

4375

x Q. 105. By "made from" do you mean that the 1847 edition of Webster's unabridged dictionary was actually used in the compilation of your dictionary? A. I believe it to have been used by reason of the fact that we purchased the plates of our book and the copyright, and on the title page it plainly stated that the book was based upon the unabridged edition of Webster.

x Q. 106. Yes. But the question goes to what you meant in your testimony above quoted. When you say "made from" did you mean that the 1847 edition of Webster was actually used in the compilation of your books? A. I believe that the 1847 edition was used as a basis.

x Q. 107. What do you mean by the phrase "as a basis"? A. As a ground work.

4376

x Q. 108. Do you mean that any part of the literary matter of the 1847 edition of Webster's dictionary was actually reproduced and carried forward from that book into your book? A. I believe it to have been.

x Q. 109. That is what you mean then by "made from" or "based upon" and other similar terms which you have used? A. It is.

Frank E. Wright—Cross.

4377

x Q. 110. You have stated your belief upon the subject. Have you, however, any actual personal knowledge of how your book was compiled by its original compiler? A. I have not.

x Q. 111. In other words, so far as you are concerned, you leave the books to speak for themselves? A. Yes.

x Q. 112. Upon the title page of this Crown dictionary the name of Edward T. Roe is given as the author. Who is Mr. Roe? A. I don't know. 4378

x Q. 113. Have you ever met him? A. I believe I did meet him years ago.

x Q. 114. What is your latest information as to his whereabouts? A. I really have no information.

x Q. 115. What is the last information you had as to Mr. Roe's whereabouts? A. That he was then in Chicago.

x Q. 116. Have you any information as to his employment then or now? A. Then he was connected with a large dictionary which was being made by Oglivie and Mr. Conkey. 4379

x Q. 117. What was the date of that period to which you refer? A. I think it was in the year 1894 or 1895.

x Q. 118. And you have had no more recent information as to Mr. Roe's whereabouts than that? A. I have no definite information.

x Q. 119. What indefinite information have you then? 4380

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial.

A. I have heard it said that he was in Chicago, but I have no definite information.

4381

Frank E. Wright—Cross.

x Q. 120. Did you hear that said by any employee or agent of the Syndicate Publishing Company?

MR. CARROLL: Objected to as incompetent, immaterial and irrelevant.

A. No.

4382

x Q. 121. When you changed the name of the Crown dictionary by adopting the name "Webster" did you rely only upon the statement upon the title page of that dictionary, "Based upon the Unabridged Dictionary of Noah Webster"?

A. I did; backed up by the assurance of Dr. Klopsch that such was the case.

4383

x Q. 122. Is the Charles Leonard Stuart referred to in defendant's answer herein, and whose name was placed upon the title page of the defendant's dictionary some time in 1911, the Mr. Stuart that you have referred to just above as the one who made changes? A. He is.

x Q. 123. He was not a co-laborer with Mr. Roe? A. Oh, no.

x Q. 124. Who was first in changing the name of the Crown dictionary to that of Webster's dictionary, you or Cupples & Leon? A. I don't know. I think Cupples & Leon were.

4384

x Q. 125. What was the date of the modification of your title from "Webster's Illustrated" to "Webster's New Standard"? A. I could not tell you offhand.

x Q. 126. Was it prior to 1911? A. No, but in the Spring of 1911.

x Q. 127. Had you determined or planned to adopt and use the name "Webster" in connection with this dictionary at the time you bought the copyrights and plates from Klopsch? A. I certainly did.

Frank E. Wright—Cross.

4385

x Q. 128. You bought the book intending to change its name? A. Yes.

x Q. 129. Was this purchase and the negotiations for it conducted wholly or in part by correspondence? A. No; largely by personal interview.

x Q. 130. Have you any correspondence bearing upon that purchase which can be produced? A. I don't think there was any.

x Q. 131. Did you ever have in your possession the dead copy from which the type was set for this book originally? A. No. 4386

x Q. 132. You never saw it? A. No.

x Q. 133. How much approximately did defendant spend for the editorial additions to its book from the time it was purchased from Klopsch until the beginning of this suit? A. I have not the slightest idea. Expense items of that kind go into the expense column of our books and I have forgotten. 4387

x Q. 134. Have you not a separate account upon your books that will show that sum? A. We have not.

x Q. 135. Was the miscellaneous matter which appears in the concluding part of your dictionary or any of it taken from the Crown Encyclopedia published by Klopsch or your edition of it published under the name of "New Century Reference Library"? A. It may have been, but I don't know of my own knowledge. 4388

x Q. 136. Prior to your purchase and publication of this dictionary, what dictionaries had the Syndicate Publishing Company published? A. The Encyclopedia Dictionary.

x Q. 137. The large four volume dictionary? A. Four volumes.

4389

Frank E. Wright—Cross.

x Q. 138. Any others? A. That same book in different editions under different titles.

x Q. 139. Was that book compiled under the editorial supervision of the Syndicate Publishing Company or was it purchased from some other publisher? A. We purchased it from Cassell & Company of London, England, and gave it a very thorough American revision, under the editorship of Professor Morris of Philadelphia.

4390

x Q. 140. Who prepared the newspaper matter referred to by you in your answer to direct question 37? A. It was done in our advertising department of which Mr. Johnson is the advertising manager under the direct instructions of Mr. Swift and assistants. Many of the newspaper reading notices on the book were prepared by employees of the newspapers themselves.

4391

x Q. 141. I presume it is true that the advertising of this dictionary prior to January 1st, 1911, that is before this newspaper campaign began, was nothing like as extensive as it subsequently was? A. You are right.

x Q. 142. Did you furnish such newspapers with data or other matter as a basis from which they must prepare these reading notices? A. We may have done so, but I don't think so, for the reason that the newspaper notices were largely in the form of news articles.

4392

x Q. 143. Were any of those notices paid for? A. I must decline to answer that.

MR. HALE: The special Examiner is requested to certify this question to the Court for a ruling as to the propriety of the question and the duty of the witness to answer it.

Frank E. Wright—Cross.

4393

x Q. 144. You stated in reply to direct question 39 that the cost of this newspaper advertising at the usual rates would have amounted to a sum in excess of five hundred thousand dollars. How much did that advertising actually and directly cost the defendant in money? A. I must decline to answer.

Mr. HALE: The Examiner is requested to certify this question also for a ruling as to the propriety of the question and the duty of the witness to answer it. 4394

x Q. 145. You do not mean to be understood by your answer to direct question 39 as testifying that the defendant actually paid five hundred thousand dollars for newspaper advertising during the campaign in question? A. I don't care how you understand it.

x Q. 146. How do you mean the Court to understand your answer to direct question 39 in that regard? A. The Court must draw its own conclusion. 4395

x Q. 147. What, if any, consideration did the newspapers receive from defendant for this advertising in addition to a money consideration? A. I decline to answer.

Mr. HALE: The Examiner is requested to certify this question also in connection with the others on this line. 4396

x Q. 148. Have you at all times since you began publishing this book sought to distinguish it from the Webster dictionaries published by the complainant? A. Yes.

x Q. 149. At the beginning what steps did you take to distinguish your book from the Webster

4397

Frank E. Wright—Cross.

dictionary of the complainant? A. By printing our name on the title page in great big bold face letters, which is the usual method adopted by publishers the world over.

x Q. 150. You mean by placing your name in the publisher's imprint upon the title page? A. If you like it that way.

4398

x Q. 151. What other means did you adopt at that time? A. None.

x Q. 152. Of course, omitting the name "Crown" and adding the name "Webster's" had no distinguishing effect?

MR. CARROLL: Objected to as irrelevant and immaterial; objected to on the further ground as improperly stating the facts, inasmuch as the name "Webster" was always in the title of the dictionary.

4399

A. That appears to be the counsel's opinion.

x Q. 153. Did you leave off the words appearing upon the title page of the Crown dictionary "By Edward T. Roe, LL. B.," and insert in lieu thereof, similarly placed, the words "Of Noah Webster, LL. D." upon the title page of your dictionary for the purpose of distinguishing your book from the Webster's dictionaries of the complainant?

4400

MR. CARROLL: Objected to as incorrectly stating the facts; the names were not similarly placed, as an inspection of the dictionaries will show.

MR. HALE: Inspection of the dictionaries will show the correctness of the facts stated in the question, and inspection is earnestly desired.

A. We did not.

x Q. 154. When, if ever, did you restore the name of Roe to the title page? A. During the fall of 1911.

x Q. 155. What was the occasion of restoring Mr. Roe's name to the title page at that time? A. Because there had been some complaint about their being no name of the editor on the title page.

x Q. 156. From what source did such complaint come? A. I believe your people did not like the idea. 4402

x Q. 157. You mean the Merriams? A. The Merriams, yes, and we were desirous of doing everything we could to tell the story of the book.

x Q. 158. If that is true, why do you not include in your warning or explanatory notice a statement that it is the 1847 edition of Webster's dictionary upon which you claim to have founded your book; that is, why do you not specify the date of the edition used? A. We have not felt called upon to do so. 4403

x Q. 159. Is there any commercial reason for not doing so? A. Do I understand your question to mean, have I a good reason for not doing so?

x Q. 160. I mean, what is defendant's reason for not doing so? A. We have not been requested to do so, or instructed to do so.

x Q. 161. Is there any other reason for not doing so? A. There must be many reasons for not wishing to do so. 4404

x Q. 162. Will you state some of the many reasons? A. We state on our title page that we use the unabridged dictionary of Noah Webster as our basis, and I regard it entirely unnecessary to encumber the title page with superfluous statements, which would be were we to add the word suggested.

4405

Frank E. Wright—Cross.

x Q. 163. The word suggested being merely the date, "1847"? A. Yes.

x Q. 164. Is there any commercial or business reason for not using the date? A. I would have many objections to doing it.

4406

x Q. 165. Will you please state some or all of such objections? A. My understanding of that cautionary notice is that its sole object is to distinguish between our books and the books published by Merriam & Company. That object would in no way be helped by adding the "1847" to the cautionary notice. Another reason would be that I prefer to preserve the simplicity of the title page rather than to encumber it with a lot of what seem to me to be senseless statements. I believe that Mr. Hale's obvious reason or obvious hope for having such a notice inserted would be that if inserted it would not distinguish between our books and those of the complainant but would militate against the sale of our dictionaries. As a

4407

matter of fact, I do not think such a condition would follow, because the majority of the buying public very well understand that Webster's unabridged dictionary was the original book published probably forty or fifty or sixty years ago, and the revision of that book with the cautionary notice, "This dictionary is based upon the 1847 edition of Webster's dictionary" and the equally truthful statement that it is not published by the original publishers of Webster's dictionary or by their successors but has been revised and brought up to date by competent English and American authorities would be just the kind of a book the buyers would expect to get. Now, Mr. Hale, I might be willing to insert that cautionary notice providing G. and C. Merriam Company would put

4408

Frank E. Wright—Cross.

4409

the notice on the title page of your "Condensed Dictionary" like this:

"The plates of this dictionary were set up in 1884, and there has been practically no change since that date. Buyers take notice."

and provided further, if you please, that the G. & C. Merriam Company would put on the title page of every "Unabridged Dictionary" of which they had published many editions and sold throughout the world, the notice, "This book is printed from the identical plates of the 1864 edition on which the copyright has expired. Buyers take notice," and below that print the name of the G. & C. Merriam Company as publishers of Springfield, Massachusetts, with the year date of the edition published. 4410

MR. HALE: So much of the witness' answer beginning with the words "I might be willing" and so forth, and continuing to the end is objected to as not responsive, as incompetent, irrelevant and immaterial, and as a volunteered statement of the witness, and motion is made to strike it out. 4411

x Q. 166. Since the beginning of your testimony in this case, that is, since you went upon the stand, have you discussed the form of any answers which you might, could or should make to any line of questions with your counsel? A. No, sir. I have talked it over with all of our officers. 4412

x Q. 167. Have you read and discussed the testimony given by your Mr. Swift? A. I have read it this morning.

x Q. 168. Since beginning to testify have you discussed with your counsel the form of answer

4413

Frank E. Wright—Cross.

to be made to a question calling for what objections there were to the use of the date 1847 in connection with your book? A. As to the form of an answer?

x Q. 169. Yes. A. No, sir.

4414

x Q. 170. Have you discussed anything whatever with reference to a probable question that you might be asked in regard to the use of the date 1847. A. I have discussed a good many features of the case with our counsel.

x Q. 171. And you have discussed this matter since beginning to testify? A. What matter?

x Q. 172. The matter of the use by defendant of the date 1847? A. I have discussed a great many matters with our counsel; I cannot single that out as one of them specifically and specially.

x Q. 173. As a matter of fact, have you not discussed that question with counsel since you went upon the stand and began to testify in this case?

4415 A. I decline to answer.

MR. CARROLL: We are ready to stipulate on the record that as is the usual custom in every law suit the witness has conferred with his counsel at various stages of the examination regarding that examination.

4416

x Q. 174. Have you stated now all the business or commercial reasons which defendant has for being unwilling to use the date 1847 in connection with its warning notice or distinguishing statement? A. There may be other objections to it, but as I am not all of the defendant I would have to take my associates into consideration.

Frank E. Wright—Cross.

4417

x Q. 175. Please state now all the objections that you know of? A. I think I have stated enough.

x Q. 176. You stated in your direct examination that your purpose in leaving off the copyright notice of the Crown dictionary bearing date 1904 and substituting in lieu thereof in your first edition a copyright notice in your own name, giving the date 1908, was to distinguish your printing of this book from the printing of the same book by Cupples & Leon. Is that correct? A. Yes.

4418

x Q. 177. Would there have been any confusion between your book and Cupples & Leon Company's book if you had retained the title "Crown Dictionary" instead of adopting the name "Webster's" as they had done? A. I would presume there would be, but not having gone through that agony I don't know. I do know, however, that there was much confusion between their edition and ours, even after all the precautions that were taken.

4419

x Q. 178. What caused that confusion? A. As a rule it was because they represented that their book was the same as ours.

x Q. 179. In your dictionary as published and sold by you in 1911 through the newspapers—and I am referring to a book offered in evidence marked "Complainant's Exhibit, Richard W. Geldarts' Dictionary"—I notice that you have a single copyright notice in your name bearing date 1911. Why did you leave off all the earlier copyright notices? A. I really don't know.

4420

x Q. 180. I notice also you have the date 1911 in the publisher's imprint upon the title page.

4421

Frank E. Wright—Cross.

Was that date used in accordance with the custom in that regard testified to by you in the earlier part of your examination? A. The custom is to print the year in some cases and in some cases not; sometimes we put it on the title pages and sometimes we do not.

4422

x Q. 181. I show you the book last referred to and ask you if that is a specimen of your most expensive form of dictionary used in the newspaper campaign during 1911? A. I would say so.

x Q. 182. And the only difference between the books of different prices offered in that campaign was in the binding? A. And contents.

x Q. 183. What was the difference in the contents? A. Some had more illustrations than others.

x Q. 184. The only difference in contents was in the matter of illustrations? A. Illustrations.

4423

x Q. 185. Did defendant publish more than one edition in its various bindings during the year 1911 and prior to the beginning of this suit? A. What do you mean by "edition"?

x Q. 186. I mean, did you make any substantial changes in the contents other than the insertion or omission of the illustrations? A. As I have already testified it has been customary to make the insertion of new words as often as it seemed advisable to do so.

4424

x Q. 187. Except for plate corrections, there was no new or revised edition during the year 1911? A. No.

x Q. 188. Is the dictionary shown you, that is, "Complainant's Exhibit Richard W. Geldarts' Dictionary," the dictionary of the style referred to in your advertisements and coupons as the

Frank E. Wright—Cross.

4425

\$2.50 Webster's New Standard Dictionary, the same advertisements referring to the \$2.00 Webster's New Standard and the \$1.50 Webster's New Standard?

MR. CARROLL: Objected to, unless counsel specifies some particular advertisement.

A. I would say it is.

MR. HALE: Counsel was referring to the dictionary coupon published March 29th in the New York American of this city and appearing on page 11 of Complainant's Exhibit Defendant's Advertisements. 4426

x Q. 189. In an advertisement appearing in the Buffalo News of September 28th, 1911, offered in evidence in this case, and appearing on page 44 of Complainant's Exhibit Defendant's Advertisements, I notice a cut of a dictionary in all respects like the Geldart Dictionary shown you and a reference to three styles designated respectively the \$4.00 Webster's New Standard Dictionary and the \$3.00 Webster's New Standard Dictionary and the \$2.00 Webster's New Standard Dictionary. Is this dictionary shown you a specimen of what is here termed the \$4.00 Webster's New Standard Dictionary? 4427

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial. 4428

A. How many illustrations are in it?

x Q. 190. You may look and see? A. I am not going to look at it.

x Q. 191. The book is handed the witness and the witness is requested to say whether that is a specimen of the dictionary referred to as the

Frank E. Wright—Cross.

4429

\$4.00 Webster's New Standard Dictionary? A. When we listed the Webster's New Illustrated Dictionary in cloth at \$1.50, in the half leather at \$2.00 and in full leather at \$2.50 there was only about one-half the illustrations contained in it which appear in the edition which we listed at \$2.00 in cloth, in half at \$3.00 and in full leather at \$4.00. If the dictionary shown me by Mr. Hale has the full number of illustrations it would be the \$4.00 dictionary. If it has the lesser number of illustrations it would be the \$2.50 dictionary.

4430

x Q. 192. The only difference, then, between the \$2.50 and the \$4.00 dictionary as described in the advertisements is in the matter of additional illustrations? A. Of additional illustrations, additional revision and better grade of paper, and what appears to be a better grade of binding.

4431

x Q. 193. During the year 1911 were any copies of defendant's dictionaries ever sold at the retail price of \$4.00? A. I don't know. There were some of them sold at \$3.35.

x Q. 194. Where? A. Ohio.

x Q. 195. By whom; ordinary book stores? A. Our representatives, canvassers.

x Q. 196. Anywhere else? A. Yes; various places.

4432

x Q. 197. Approximately in round numbers show how many dictionaries were sold at the price of \$3.35? A. I could not tell you.

x Q. 198. During the year 1911, were any dictionaries sold at the retail price of \$2.50? A. Yes.

x Q. 196. Where? A. All over. I could not specify any special place.

x Q. 197. You don't mean by the newspapers of course in either instance? A. No.

Frank E. Wright—Cross.

4433

x Q. 198. Do you mean in retail bookstores? A. No, by canvassers. I believe it to be the custom of all the canvassers to sell at the list price.

x Q. 199. And the list price during 1911 for this style, that is, the best grade, was what? A. I have just covered that; in that instance the man sold it for \$3.35, the \$4.00 book. They had a right to sell at whatever price they sold, but as a rule they sold at the list price.

x Q. 200. During the year 1911, were there any bookstores carrying these dictionaries in stock as part of their retail book stock? A. Yes, sir. 4434

x Q. 201. In what cities? A. In very many cities throughout the United States.

x Q. 202. When did you first put an explanatory or warning statement in the coupon advertisement that appeared in the newspapers? A. After the preliminary injunction in this case, after we received the order from the Court. We never up to that time regarded the coupon as an advertisement, but we were informed that it is, so we are willing to take it so. 4435

x Q. 203. Even after the decision of the Court on the preliminary motion, did you insert the explanatory statement in your coupon advertisements until request was made that the same be done by complainant's counsel? A. We did it instantly on receiving notice from the Court, the Court order. So careful were we in that respect that I gave instructions definitely and positively to our advertising department, Mr. Swift and Mr. Adair, and in fact to everybody that had to do with the dictionary in any respect. 4436

x Q. 204. Do you remember that a letter was sent from complainant's counsel calling attention to the fact that the coupon advertisements did not bear the notice? A. I do.

4437

Frank E. Wright—Cross.

x Q. 205. And it was after that that the notice was inserted in the coupon advertisements? A. No, we had ordered it inserted before then. Evidently some of our newspaper customers did not take our instructions.

4438

x Q. 206. Since the beginning of this suit you have had a further revision made of your dictionary under the supervision of Professor Peck to whom you have referred? A. No, that is not so.

x Q. 207. What is the fact in that regard? A. We made an entirely new book.

x Q. 208. Using no part—A. (Interposing.) I don't know whether we used any part of it, but we made an entirely new book from start to finish.

x Q. 209. That new book is the book which you published under the name "The New Websterian?" A. Yes, the 1912 dictionary.

4439

x Q. 210. Did you personally conduct the purchase of the copyright and plates from Klopsch of this dictionary? A. Yes.

x Q. 211. Did anyone else take any part in that transaction? A. No.

x Q. 212. In this newspaper distribution of your dictionary did the papers handle the dictionary on consignment being paid by commission, or otherwise, or what was the plan? A. I decline to answer.

4440

MR. HALE: The Examiner is requested to certify this question for a ruling as to its propriety and the duty of the witness to answer it.

x Q. 213. In reply to direct question No. 36, asking you in what places this newspaper campaign was carried on, you replied: "Between three and four hundred towns and cities in the United

Frank E. Wright—Cross.

4441

States and Canada." Please give a list of the newspapers handling your dictionary and referred to in that answer. A. I decline.

MR. HALE: The Examiner is requested to certify this question as to the propriety of the question and the duty of the witness to answer same.

x Q. 214. Are there written contracts existing between the defendant and various newspapers under which they handle the book? A. Yes.

4442

x Q. 215. Will you produce specimen copies of the types of contract used by you in that connection? A. No.

x Q. 216. You have them in the possession of defendant or copies of the same? A. Yes.

MR. HALE: The defendant is called upon to produce specimen copies of said contracts for the purpose of the cross examination of this witness.

4443

MR. CARROLL: No subpoena *duces tecum* having been served upon defendant, defendant is not prepared to do that.

x Q. 217. Please state the general nature of the scheme or plan as embodied in these contracts. A. I decline.

MR. HALE: Same request to the Examiner to certify the question.

4444

x Q. 218. What provision was made in these contracts for the compensation of the newspapers for the advertising which they gave to defendant's book? A. I decline.

MR. HALE: Same request to the Examiner to certify the question.

4445

Frank E. Wright—Cross.

- x Q. 219. What provision was made in said contract for compensation of the newspapers for handling the book or selling same? A. Declined.

MR. HALE: Same request to certify.

4446

x Q. 220. Is it true as stated in some of the advertisements of your book printed in the New York American that that paper disposed of upwards of one hundred thousand copies of your dictionary? A. I really could not tell how many they sold, but I think they did.

x Q. 221. Please give the names of newspapers or other periodicals which used defendant's dictionary as a premium prior to the newspaper campaign of 1911. A. There were quite a number; I can give some of them from memory. Hampton's Magazine, Metropolitan Magazine, Cosmopolitan Magazine, Christian Work—how many do you want of these?

4447

x Q. 222. I would like a complete list. A. I will give you those and decline to answer further.

x Q. 223. You have a complete list in the office? A. I might find out by looking them up, but I decline to do it.

4448

MR. HALE: The Examiner is requested to certify the request for the names of the periodicals referred to for a ruling as to the propriety of the question and the duty of the witness to answer same.

Complainant's counsel is unable to complete the cross examination of this witness until the questions which the Examiner has been requested to certify to the Court have been ruled upon, and the witness has answered such questions as the Court may rule should be answered. The Examiner is

(*Frank E. Wright—Re-Direct.*)

4449

requested to adjourn the further cross examination of this witness until such questions may be brought before the Court.

RE-DIRECT EXAMINATION by Mr. Carroll:

R-D. Q. 224. When did you learn the exact terms of the Oglvie injunction? A. Shortly after the receipt of the letter from the Merriam Company complaining about our advertisements and book.

4450

R-D. Q. 225. About what was the date? A. Shortly after October 4th, 1911.

R-D. Q. 226. What did you know about the case of Oglvie against the Merriam Company before that date?

MR. HALE: Objected to as incompetent, irrelevant and immaterial.

A. I knew nothing in detail of the thing. I had understood that there had been trouble between Oglvie and the Merriam Company which resulted in a law suit which was won by Oglvie, but after the receipt of this letter from the Merriam Company, written on October 4th, I learned from Mr. Oglvie the nature of the decision.

4451

R-D. Q. 227. In answer to question 27 you stated that you had inserted the cautionary notice prescribed by the decree in the Oglvie case in your advertisements, because you were not desirous of having the public buy your book in the belief that they were getting a book of the Merriams. Did you ever suppose that anyone would buy your book in the belief that they were getting a book of the Merriams?

4452

MR. HALE: Objected to as incompetent, irrelevant and immaterial and not proper re-direct examination.

4453

(Frank E. Wright—Re-Direct.)

A. No one would ever buy our books thinking they were getting Merriam's, providing they had ever seen Merriam's.

4454

R-D. Q. 228. So far as you know, did anyone ever buy your book in the belief that they were getting a book of the Merriam's? A. No, we sold a number of thousand copies of our book in Springfield, Massachusetts, and we took occasion to put in several large advertisements in the papers there in which we specially requested anybody who had purchased our book, thinking it was a Merriam publication to return it and get their money. To the best of my knowledge and belief not a single copy came back.

4455

MR. HALE: The question and the answer thereto is objected to as incompetent, irrelevant and immaterial, and motion is made to strike out the answer. Objection is also made upon the ground that the witness cannot know and has shown no means of knowledge as to whether or not numerous purchasers of these dictionaries have not purchased the same believing they were getting one of the complainant's dictionaries.

4456

R-D. Q. 229. Do you wish to add anything to the testimony you have already given as to your reason for inserting the cautionary notice in your title pages and advertisements? A. Yes.

R-D. Q. 230. What do you wish to add?

MR. HALE: Objected to as incompetent, irrelevant and immaterial.

A. When we learned of the Ogilvie decision and the Court order in which he was requested to

(*Frank E. Wright—Re-Direct.*)

4457

print the so-called cautionary notice on the title page, I immediately saw no reason why that notice should not be put on our title page, providing it would help to distinguish our book from the book published by Merriam, although there was no reason why that notice should be put on our title page, because I understood the Ogilvie decision to apply only to his book, and there were certainly no deceptive statements on the title page of our book, as was in the case, I am told, of the Ogilvie book.

4458

R-D. Q. 231. In cross examination by Mr. Hale, and referring to your answer to question 37, you were asked who prepared the advertising matters by you in the campaigns. In answer to that question you stated that it was done in your advertising department. Was the copy sent out by you always published exactly as prepared by you? A. No; it was very often changed by the newspapers. I wish to add that in my answer as to who prepared the advertising copy I stated that it was done by our advertising department, the manager of which was Mr. Johnson, under the direction of Mr. Swift. I should have added there, and now add for the purpose of correction, that I personally prepared, or rather dictated, a number of the ads to our advertising manager, and really was responsible for them.

4459

R-D. Q. 232. How do you account for the fact, if it be a fact, which has been suggested by counsel for complainant, that some of the advertisements used in your campaigns even after October 9th, 1911, did not contain the so-called cautionary notice?

4460

MR. HALE: Objected to as incompetent, irrelevant and immaterial; the fact only is

4461

(*Frank E. Wright—Re-Direct.*)

relevant and the witness' method of accounting therefor is immaterial.

4462

A. The cautionary notice was sent out to all the newspapers by my orders, and they were requested to insert it in every display ad. I can only account for its not being inserted by reason of their failure to follow our instructions, and the advertisements being their own, they naturally felt that they could do as they pleased.

R-D. Q. 233. Why did you take the name of "Roe" off the title page of your books? A. Because Mr. Klopsch had sold a set of plates of the book to another concern, and in the edition which they published the name of Mr. Roe appeared as the editor. We took the name off because we wanted to divorce our book as far as possible from the edition published by the other concern.

4463

R-D. Q. 234. Do you wish to add anything to your answer to Mr. Hale's question as to what reasons you have for objecting to inserting in your advertisements the cautionary notice of any kind? A. Yes. While I do not object to adding or inserting the cautionary notice on the title page of our book, I do most seriously object to inserting the cautionary notice in our advertisements and in our coupons and in our circulars, for the reason, and solely for the reason, of the expense. We buy advertising space that costs all the way from three cents a line to five dollars, and this cautionary notice occupies about three lines, ordinary newspaper column, and it seems to me unfair that we should be loaded with the expense which has already run into thousands of dollars as a result of being compelled to put that cautionary notice in our advertisements; it is not fair, and there is nothing to be gained by it.

4464

(*Frank E. Wright—Re-Direct.*)

4465

That in itself would represent a very respectable dividend on our capital stock in a year.

MR. CARROLL: That is all.

RE-CROSS EXAMINATION by Mr. Hale:

R-x Q. 235. At the time you dropped the name "Crown Dictionary" and adopted the name "Webster's" did you take legal advice as to your right to do so? A. We did not need to.

4466

R-x Q. 236. What did you mean by that? A. That we thought we knew enough about the legality of the thing.

R-x Q. 237. Did you look up any legal decisions at that time? A. We did not. We knew the word "Webster" was public property.

R-x Q. 238. At least that was your opinion? A. No, it was not my opinion; I knew it.

R-x Q. 239. Without restrictions? A. Yes, without restrictions.

4467

R-x Q. 240. And that is your position to-day? A. No, I have not any position except we have the right to use the word "Webster" in connection with our dictionary.

R-x Q. 241. Do you still insist that you have always been within your legal rights from the beginning in the use of the name "Webster" in connection with this dictionary?

MR. CARROLL: Objected to as irrelevant, incompetent and immaterial.

4468

A. Answer declined.

MR. HALE: The Examiner is requested to certify this question for a ruling of the Court.

4469

Frank E. Wright—Re-Cross.

R-x Q. 242 You have stated in answer to your counsel that there was no reason why a warning notice should be used upon your book. That has always been your opinion, has it not? A. Yes.

R-x Q. 243. Is yet? A. Yes.

R-x Q. 244. Notwithstanding the contrary decision of Judge Coxe upon the motion for preliminary injunction in this case? A. Yes.

4470

R-x Q. 245. You disagree with Judge Coxe then? A. I do. The name of our concern should be sufficient to tell anybody who the publisher is.

R-x Q. 246. And that is your position now, and always has been your position? A. That is my opinion.

R-x Q. 247. And always has been? A. Yes, always will be.

4471

R-x Q. 248. And you are going to act upon that until some Court compels you to do otherwise? A. I shall follow the order of the Court, my dear Mr. Hale.

R-x Q. 249. You have stated that some newspapers have sometimes changed your copy. Will you please specify what newspapers have done so? A. I don't call to mind the names, but I know it has been done in many instances.

4472

R-x Q. 250. Will you please produce copies of the advertisements which have been changed by any newspapers and point out the changes which were made?

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial, the changes being quite immaterial, the mere fact of the change being all that is relevant.

A. I could very readily do that, but unless advised to do so by counsel, I will decline. And for your

Frank E. Wright—Re-Cross.

4473

information, Mr. Hale, if you will refer to the Boston Herald, who are now advertising the dictionary, and have been for several weeks, there are practically none of their ads which are in any respect the same as the copy sent them by us.

R-x Q. 251. Is there anything in your contract with the Boston Herald with regard to this matter? A. I could not tell without reference to the contract.

R x Q. 252. Will you please refer to the contract and testify to the fact? A. (Witness examines contract.) The contract plainly calls for using our copy and they are changing it without our permission. 4474

R x Q. 253. Will you allow me to see the contract, please, to which you have referred, in making your last answer? A. I will not.

MR. HALE: Defendant's counsel are called upon to produce and allow complainant's counsel to inspect the contract used by the witness in testifying in response to the last question. 4475

MR. CARROLL: Defendant's counsel declines, for the reason that complainants have many times endeavored by hook or by crook to obtain copies of defendant's contracts, and for the particular reason that whether or not these changes have been made in compliance or in violation of the contract is irrelevant and immaterial, no foundation having been laid for this question, and it appearing in no way what the character of these changes was. 4476

MR. HALE: The statement by defendant's counsel that complainant has endeavored by hook or by crook to obtain copies of

4477

Frank E. Wright—Re-Cross.

these contracts is objected to as untrue and offensive and as incompetent, irrelevant and immaterial, and motion is made to strike it out. The Examiner is requested to certify to the Court the question of the duty of the witness and of defendant to afford complainant's counsel an inspection of the contract used by the witness in testifying.

4478

R-x Q. 254. Will you specify what changes were made or the general nature of the changes made by newspapers in your advertising copy? A. The changes that were made were those changes that seemed to satisfy the newspaper publisher.

R-x Q. 255. Is that the best answer you can make? A. The best I can give, because in one case it is one thing and in another it is another.

4479 R-x Q. 256. To what newspapers was notice sent to incorporate in all advertisements the alleged warning or explanatory notice? A. To the best of my knowledge and belief all of the newspapers with which we were doing business.

R-x Q. 257. Will you please name the newspapers to whom such notice was sent? A. I decline.

4480

MR. HALE: The Examiner is requested to certify this question for a ruling as to the propriety of the question and the duty of the witness to answer same.

R-x Q. 258. Will you please produce a copy of the notice sent to the newspapers in this regard? A. I could not produce that, because it was done in our advertising department by letter.

R-x Q. 259. Have you no copy of that letter?

Frank E. Wright—Re-Cross.

4481

A. I presume the advertising department has a copy, but when you are examining Mr. Swift or Mr. Johnson if you do, you can get it through them.

R-x Q. 260. You have referred to a notice sent to newspapers and have purported to state the contents of that notice. The notice is the best evidence of what it contains. Will you please produce one of such notices or a copy of one?

4482

MR. CARROLL: Defendant's counsel states that defendant is not prepared to produce any such notices, no subpoena *duces tecum* having been served.

A. Declined.

MR. HALE: The Examiner is requested to certify this question for a ruling as to the duty of the witness to produce the paper called for.

4483

R-x Q. 261. Will you please state accurately the contents of the letter sent to the newspapers in this regard? A. I did not send it.

R-x Q. 262. Will you please state the contents of the letter that has been sent? A. I cannot state the contents because I did not send the letter, and I have not seen it. I gave instructions that such a letter should be sent.

R-x Q. 263. And you have never seen any of those letters or any copies thereof? A. I may have seen them at the time.

4484

R-x Q. 264. Having seen them, will you please state the contents of them as nearly as you can? A. I would have to get a copy of the letter.

R-x Q. 265. That is easy. Please procure a copy of the letter and testify to its contents?

4485

Frank E. Wright—Re-Cross.

MR. CARROLL: This witness refuses to produce it, not having been ordered to produce it and not being prepared to produce it.

4486

MR. HALE: The question now is not as to the production of the letter, but the witness is asked to testify to the contents of the letter which the defendant has refused to produce.

MR. CARROLL: The witness has answered in answer to that question that he did not send out the letters, and that perhaps he may have seen the letters, but he does not now remember their exact contents.

R-x Q. 266. Will you please answer the question calling for the contents? A. I refuse.

4487

MR. HALE: The Examiner is requested to certify this question to the Court for a ruling as to its propriety and the duty of the witness to answer it.

The Examiner is requested to now adjourn the further cross examination of this witness until a ruling may be obtained upon the questions which he has been requested to certify.

4488

(The examination is accordingly adjourned until tomorrow, Friday, May 17th, 1912, at two P. M.)

Frank E. Wright—Re-Cross.

4489

NEW YORK,
Friday, May 17th, 1912,
2 o'clock P. M.

Met pursuant to adjournment.

Present—Counsel as before.

Adjourned to Thursday, May 23rd, 1912, at 2 P. M.

4490

At the hearing pursuant to this adjournment the deposition of Albert L. Swift was continued. Said continuation of deposition appears at page 1180 of this record.

At the close of the hearing of May 23rd, 1912, adjournment was taken to Friday, May 24th, 1912, at 1 o'clock P. M.

NEW YORK,
Friday, May 24th, 1912,
1 o'clock P. M.

4491

Met pursuant to adjournment.

Present: Counsel as before.

FRANK E. WRIGHT, resumed.

RE-CROSS EXAMINATION Continued by Mr. Hale:

R-x Q. 267. In answer to cross question 75 you stated that it has been customary with defendant to make additional changes with pretty nearly every edition. What do you mean by the term "edition" in that connection? A. Well, the quantity printed at a single time.

4492

Frank E. Wright—Re-Cross.

4493

R-x Q. 268. And the changes referred to in that answer were of what character? A. By the insertion of new words.

R-x Q. 269. By cutting the plates and making place for them? A. Yes, sir.

4494

R-x Q. 270. You have spoken of sales by canvassers. How many canvassers were employed to sell this dictionary? A. I have no means of knowing, for the reason that the newspapers, in carrying out their campaign in very many instances use canvassers in connection with the plan.

R-x Q. 271. Has the defendant company itself under its direct employ any canvassers for its dictionary? A. No.

R-x Q. 272. And has never had? A. No; we are wholesalers, and sell dictionaries to a number of people who in turn sell them by canvassers.

4495

R-x Q. 273. What people or class of people to whom you sell in turn employ canvassers? A. Pretty nearly all of them.

R-x Q. 274. You have stated that you have known of a sale of your dictionary by a canvasser for the price of \$3.35. What work was sold by that canvasser for that price? A. Our regular dictionary, bound in limp leather.

R-x Q. 275. In connection with any other work? A. No.

4496

R-x Q. 276. You have referred to a list price. How and when was any list price fixed by defendant? A. When we issued our circulars or announcements the list price was printed on them.

R-x Q. 277. Will you produce any specimen circular or announcement containing list prices? A. (Witness produces paper.)

Frank E. Wright—Re-Cross.

4497

R-x Q. 278. When was the circular produced first issued by defendant? A. Probably in October, 1911, but I cannot specify the date.

R-x Q. 279. At what prices were your customers authorized to sell your books? A. Any price they pleased.

R-x Q. 280. How about the canvassers? A. The same thing. As a rule, subscription canvassers sell at list price, but very many of them do not.

R-x Q. 281. Has your book been listed at these prices in any other publications except the advertising matter similar to the one produced? A. I don't understand the question. 4498

R-x. Q. 282. For example, has it been so listed in the publishers' trade list annuals? A. We don't sell this book to the book trade.

R-x Q. 283. To whom do you sell it? A. To newspapers and premium houses.

R x Q. 284. Will you name some retailers who carry any edition of this dictionary for retail sale during the year 1911 and prior to the beginning of this suit? A. All of the Riker drug stores, all of the Hegeman drug stores, Siegel, Cooper & Company, the Cox Book Company, O'Neill-Adams, all of this city. Jordan, Marsh, R. H. White, Houghton & Dutton, the American News Company. 4499

R-x Q. 285. The concerns named handle the dictionary published by your house, and you are not referring to the other edition of this same book published by Cupples & Leon in your answer? A. Yes. 4500

R-x Q. 286. Do you mean these concerns handle the book published by the Syndicate Publishing Company? A. I do.

4501

Frank E. Wright—Re-Cross.

R-x Q. 287. And you do not include in that category the edition of it published by Cupples & Leon? A. No. We never recognized that book at all.

4502

R-x Q. 288. I show you a printed circular headed "Description of Webster's New Illustrated Dictionary," and ask you to please identify that as a circular issued by the Syndicate Publishing Company? A. That is one of our circulars.

R-x Q. 289. Was this circular issued some time in the early part of the year 1910? A. I could not tell when it was issued. I would presume that is probably right.

R-x Q. 290. In this circular I find the following language:

4503

"This most convenient and latest of all dictionaries is based on Noah Webster's dictionary, revised and brought up to date by the most recent eminent American and English authorities, designed to meet every demand of a modern and reliable dictionary."

This same circular also contains the following language:

4504

"Its recent publication and careful revision enables it to define and treat a large number of words of recent coinage that cannot be found in any other dictionary no matter how cumbersome and pretentions."

That is the language of some representative of the defendant who prepared this circular, is it not? A. Undoubtedly.

R-x Q. 291. Do the words "revised and brought up to date" contained in this circular refer to

Frank E. Wright—Re-Cross.

4505

work supposed to have been done by Mr. Roe in preparing the Crown dictionary or to revisions and additions made by or under the direction of the Syndicate Publishing Company after it had acquired the plates? A. Both.

R-x Q. 292. I presume you do not know what Mr. Roe did in that connection? A. I do not.

R-x Q. 293. And the changes or additions there referred to which were prepared by the Syndicate Publishing Company are such and such only as you have already referred to; is that correct? A. That is correct.

4506

R-x Q. 294. The date referred to as the point to which the book has been brought up was the date of the issuance of this circular and of the book which it describes; is that correct? A. I would think so.

R-x Q. 295. The same language, to wit, "revised and brought up to date in accordance with the most eminent English and American authorities" appeared also upon the title page of all editions of your book from 1908 to 1911, did it not? A. I would say so.

4507

R-x Q. 296. And it had the same meaning there that it has in this circular; is that correct? A. I would say so.

R-x Q. 297. The only manner in which your book was brought up to date 1911 was by the plate corrections? A. Plate corrections made after we became the owners of the plates.

4508

R-x Q. 298. In making these plate corrections, is it not true that you would saw out and omit in some instances words which had previously been in the dictionary in order to substitute some other

4509

Frank E. Wright—Re-Cross.

word? A. That is the method followed by us, and I presume also by the Merriam Company in correcting their book.

R-x Q. 299. Who are the eminent American and English authorities referred to in that statement? A. The statement was on the title page of the book when we purchased the plates, and I have already testified as to who did the work for us.

4510

R-x Q. 300. You do not know the eminent American and English authorities referred to upon the title page of the Crown dictionary? A. I do not, other than Mr. Roe.

R-x Q. 301. Did the defendant ever advocate or encourage the sale of its dictionary in any way at the price of \$1.00 or thereabouts? A. Yes, at ninety-eight cents.

4511

R-x Q. 302. You are referring now to the newspaper campaign in which the book was sold at that price? A. In which the newspaper sold it at ninety-eight cents.

R-x Q. 303. At any other time, did you advocate the sale of the book as a dollar book? A. We never advocated the sale of the book as a dollar book, but the stores as a rule sold it in that vicinity or at about that figure.

4512

R-x Q. 304. I show you a circular letter upon the letterhead of the Syndicate Publishing Company and ask you if that is a circular letter sent by defendant to the trade at or about March 10th, 1910?

MR. CARROLL: Objected to as irrelevant and immaterial.

A. I would say that came from us.

MR. HALE: Complainant offers in evidence the following portion of the circular letter identified by the witness:

Frank E. Wright—Re-Cross.

4513

"Special Offer: As we employ no traveling salesman, have no commissions, salaries or expenses to pay, we beg to quote the following prices for immediate shipment:

10 lots 75c. per copy.

25 lots 73c. per copy.

50 lots 72c. per copy.

100 lots 70c. per copy.

Terms: 2% ten days—30 days net. f. o. b.
New York City. * * *

4514

At a glance you can readily see that this dictionary will carry a retail price up to \$2.00 per copy, but experience has demonstrated it is the BIGGEST DOLLAR BARGAIN ever shown."

MR. CARROLL: I object to this quotation and move it be stricken from the record unless the paper itself be put in evidence or read in full.

4515

R-x Q. 305. At the argument of this case I propose to question the truth and good faith of the statement that this dictionary has been revised and brought up to the present date in accordance with the most eminent English and American authorities. I therefore desire to give you an opportunity now to indicate fully the nature and extent of the revision to which this book has been at any time subjected and which forms the justification of that statement in your advertisements and upon your books. Will you please give that information now? A. I will offer a copy of the Crown dictionary and a copy of our dictionary, latest edition, and a comparison of the two will show the exact nature of the additions and changes made by us.

4516

4517

Frank E. Wright—Re-Cross.

R-x Q. 306. And that is the only answer you care to make at this time? A. I could not make any other answer.

R-x Q. 307. It is true, is it not, that the Mr. Klopsch, from whom you purchased the copy-rights and plates of this dictionary, is now dead?

MR. CARROLL: Objected to as irrelevant and immaterial.

4518

A. I have been told that Mr. Klopsch is dead. I do not know it of my own knowledge.

R-x Q. 308. Were you told the approximate time of his death? A. I saw it in the newspapers.

R-x Q. 309. About how long ago? A. I should say a couple of years ago or thereabouts.

4519

R-x Q. 310. You stated that you have been told that Mr. Roe, who has been given as the author, editor or compiler of this Crown dictionary, was located in Chicago? A. Yes.

R-x Q. 311. Who told you that? A. I knew it; that he used to live there.

R-x Q. 312. Who told you that, the latest time you heard of it? A. I don't remember. I think it was Mr. Ogilvie.

R-x Q. 313. And how late was that? A. Since this trouble came up with you.

4520

R-x Q. 314. Did he give you an address at which Mr. Roe might be found? A. No.

R-x Q. 315. Have any of your counsel mentioned where he could be found to you? A. No, sir.

R-x Q. 316. Have any of the counsel for Cupples & Leon Company mentioned it? A. No, sir.

R-x Q. 317. Has any member connected with

Frank E. Wright—Re-Cross.

4521

the concern of Cupples & Leon Company mentioned it to you or anyone connected with the Syndicate Publishing Company, to your knowledge? A. No, sir.

R-x Q. 318. Or according to your best information and belief? A. No.

R x Q. 319. Is there any person besides Mr. Roe who could testify with knowledge as to what book this dictionary in litigation was in fact based upon? A. Yes. 4522

R x Q. 320. Who? A. Dr. Harry Thurston Peck of this city.

R x Q. 321. In what way is he in a position to give such testimony? A. You will have to ask him.

R x Q. 322. Is there any other person that you know of that you can name that could afford such information? A. I don't think there is.

R x Q. 323. And have you, or according to your best information and belief has any person representing either the Syndicate Publishing Company or Cupples & Leon Company been in communication with Mr. Roe since this suit was commenced? A. I would not know. I have not taken an active part in this suit. 4523

R x Q. 324. Have you any information upon that subject whatsoever? A. They have tried to locate Mr. Roe; whether or not they have actually succeeded I don't know. 4524

R-x Q. 325. What is your best information and belief upon that subject? A. Haven't I answered the question?

MR. CARROLL: I object to it, the question having already been answered.

4525 (Frank E. Wright—Re-re-Direct.)

R-x Q. 326. What is your information and belief upon that question? A. I have not any information and belief.

R-x Q. 327. I presume you are a stockholder of the Syndicate Publishing Company as well as its president and a director? A. I am.

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial.

4526 R-x Q. 328. Is your stock holding sufficient to give you control of the company?

MR. CARROLL: Objected to as irrelevant and immaterial.

A. I decline to answer the question.

R-x Q. 329. Do you decline to answer? A. I certainly do.

MR. HALE: That is all.

4527 RE-RE-DIRECT EXAMINATION BY MR. CARROLL.

MR. CARROLL: I offer in evidence the two papers identified by Mr. Wright at the request of Mr. Hale, and I read from the letter of the Syndicate Publishing Company, the following:

4528 "This letter is being sent to NEW TRADE ONLY for the purpose of extending our business among dealers who have not yet seen this book, and the following is a VERY SPECIAL PROPOSITION made with a view of opening new accounts immediately."

(Papers referred to marked Defendant's Exhibits A and B, May 24th, 1912, J. A. S., Ex'r.)

(*Frank E. Wright—Re-re-Direct.*)

4529

By MR. CARROLL:

R-R-D. Q. 330. I call your attention to the two papers just put in evidence and particularly to the two stamps thereon, "Received March 14th, 1910," also to the glue which has been pulled off the side of Exhibit B, and part of the paper pulled off the side of exhibit A, also the pin marks therein, and ask you if you can state from your own knowledge in addition to these indications whether or not the two circulars were sent out together by the Syndicate Publishing Company? A. I cannot. My belief is that the exhibit A was not included with the letter bearing date March 10th.

4530

R-R-D Q. 331. What is your belief as to the issuance of the circular, Defendant's Exhibit A?

MR. HALE: Objected to as incompetent, irrelevant and immaterial, the witness can only testify to his knowledge.

4531

A. It was not our custom to send that circular with such a letter as that to the trade. It may have been included; I don't know.

MR. HALE: Complainant's counsel states that the pin hole is probably made by a pin inserted by him pinning the printed circular to the typewritten circular letter. The paste or glue marks referred to are due to the fact that complainant's counsel had the same pasted in a scrap book for preservation.

4532

R-R-D Q. 332. For what purpose was this circular, Defendant's Exhibit A, prepared by the Syndicate Publishing Company? A. For the benefit of our canvassers who were selling the dictionary.

(*Frank E. Wright—Re-re-Direct.*)

4533

R-R-D Q. 333. How was it used by them? A. Given to them to study so they could be posted as to what the dictionary was.

R-R-D Q. 334. Were those canvassers supposed to distribute these circulars? A. No.

R-R-D Q. 335. Were they given to them simply for their own information and use? A. For their own information.

4534

R-R-D. Q. 336. Were these circulars prepared by the Syndicate Publishing Company of New York or by the Syndicate Publishing Company of Philadelphia? A. The circular was printed at a time not far from the taking over of the Pennsylvania corporation by the New York corporation, so that I cannot tell definitely whether it was printed by the New York Corporation or by the Pennsylvania. I might be able to get that information by going over our records if it is important.

4535

R-R-D. Q. 337. In answer to question 245 in cross examination you stated, "The name of our concern should be sufficient to tell anybody who the publisher is." In answer to question 248, which referred to that statement, and in which you were asked, "Are you going to act upon that until some court compels you to do otherwise," you answered, "I shall follow the order of the Court, my dear Mr. Hale." Do you wish to

4536

change your answer to that question or add anything to it? A. I am perfectly willing to insert the cautionary notice on the title page of our book, because I do not wish that there should be any question of doubt in the Merriam people's minds as to our being entirely fair, and honestly strive to differentiate our book from theirs, as

(*Frank E. Wright—Re-re-Direct.*)

4537

much as possible. We thought we were showing this spirit, when on October 9th, we gave instructions to have that cautionary notice put on the title page of our books before any suit was entered or before there was any trouble.

R-R-D. Q. 338. In answer to question 39, in which you were asked, "Can you state the cost of the advertising thus given to you at the usual rates" you answered, "I can only give an approximate answer, and to the best of my knowledge and belief, the amount would exceed five hundred thousand dollars up to and including the contracts now in operation or about to start." Do you wish to add anything to that statement or to correct it in any way? A. Yes. I have since had the advertising measured up, and at the current rates of the newspapers I find that if the space had been paid for the total amount would exceed two and one-half million dollars.

4538

4539

MR. HALE: The answer is objected to upon the ground that it appears from the answer that such sum was not in fact paid and therefore the matter is wholly irrelevant, incompetent and immaterial.

MR. CARROLL: It is entirely relevant and material on the question of the secondary meaning of the word "Webster" in the title of dictionaries whether or not other publishers or dealers than the complainant have advertised the name "Webster" in the title of dictionaries little or very widely. Whether or not this advertising was given to the name "Webster" by the defendant or by other publishers of Webster's dictionaries or by depart-

4540

(*Frank E. Wright—Re-re-Direct.*)

4541

ment stores or by newspapers is of no consequence in determining the relevancy of this question.

MR. HALE: Upon such a question the advertisements which are one of the means of committing the fraud complained of, cannot be considered.

R-R-D. Q. 339. Had you finished your answer?

4542 A. I had not. The combined circulation of the newspapers which advertised the dictionary was in excess of six million copies.

R-R-D. Q. 340. Are you correct in that statement? A. I am informed that the combined circulation of the newspapers which advertised the dictionary was in excess of six million copies.

4543

MR. HALE: The answer is objected to as being frankly hearsay, and therefore incompetent, irrelevant and immaterial, and motion is made to strike it out. It is also objected to upon the ground that evidence showing the magnitude of defendant's wrong constitutes no defense.

4544

R-R-D. Q. 341. You have stated to me from figures which you have had computed by your people, the combined circulation of the newspapers amounted to six hundred million. Was that statement correct, and do you therefore wish to correct your statement?

MR. HALE: Objected to as leading, and as incompetent, irrelevant and immaterial, because not calling for the knowledge of the witness, but only for hearsay, and up-

(*Frank E. Wright—Re-re-Cross.*)

4545

on a matter which cannot be tested by cross examination.

A. I was in error in stating six million, when I should have said six hundred million, and in each one of these newspapers appeared the newspaper announcement of the dictionary.

MR. CARROLL: It was testified to by Mr. Washburn that since 1864 sixty-eight million circulars had been distributed by the G. & C. Merriam Company for the purpose of advertising their dictionaries. This testimony is offered to show that if each newspaper distributed be considered as one circular, there has been given to the books of the defendant since January 1st, 1911, advertising growing out of six hundred million circulars.

4546

MR. HALE: Complainants object to the introduction of argument into the record in the manner of the above statement.

4547

MR. CARROLL: The statement is not made for argument, but simply to show the relevancy of the question. That is all.

RE-RE-CROSS EXAMINATION by Mr. Hale:

R-R-x Q. 342. You have stated that the advertising used by defendant at current rates would have amounted to the very large sum mentioned. You did not pay that very large sum? A. I did not state as you say.

4548

R-R-x Q. 343. Did you pay for any portion of this advertising by means of the dictionary itself in lieu of cash? A. No, we sold the dictionaries to the newspapers.

(*Frank E. Wright—Re-re-Cross.*)

4549

R-R-x Q. 344. Did they receive a credit for the advertising which they gave the dictionaries and in that manner pay for the dictionaries which you say you sold them? A. No, they paid for them in cash.

R-R-x Q. 345. How was such part of the advertising as was not paid for in cash paid for by the defendant? A. By our plan.

4550

R-R-x Q. 346. Please answer the question. How was it paid for; that is the only part of the plan I want? A. Repeat the question?

R R x Q. 347. (Question read) How was such part of the advertising as was not paid for in cash paid for by the defendant?

A. It was not paid for by the defendant; it was the newspaper's advertising and not the defendant's. The advertising we paid for in cash was ours.

4551

R R x Q. 348. Have you read your testimony since you were last upon the stand? A. I have not.

R R x Q. 349. Have you gone over any portion of it with your counsel? A. No. I talked with our counsel, but I have not gone over it.

R R x Q. 350. You have talked with your counsel about the testimony which you have given?

A. Yes, I conferred with him.

4552

R R x Q. 351. Did you also talk with him about the testimony which you should give in answer to certain lines of inquiry?

MR. CARROLL: Again I stipulate on the record as I did before in the same terms that at various times through the conduct of the case this witness has conferred with his counsel about the presentation of the testimony.

(*Frank E. Wright—Re-re-Cross.*)

4553

MR. HALE: Complainant has always deemed it an impropriety for counsel to discuss with the witness after he has taken the stand and before the completion of his testimony either the testimony which he has given or the testimony which he is yet to give in the course of the examination being conducted, and the reasons for that opinion are obvious.

4554

CROSS-EXAMINATION CLOSED.

MR. CARROLL: During the intervals when a witness is off the stand, counsel for the defendant can see no impropriety in discussing the case with him.

DEPOSITION CLOSED.

Further hearing adjourned to Wednesday, May 29th, 1912, at 2 P. M., at the office of Lauren Carroll, Esq., No. 2 Wall Street, New York City.

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(*Albert L. Swift—Direct.*)

NEW YORK, Friday, May 10th, 1912.

Met pursuant to adjournment noted on page 1088 of this record.

Present: Counsel as before.

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It is hereby stipulated between the counsel for the respective parties that the deposition of Albert L. Swift shall be taken down stenographically by a skillful stenographer appointed by the Special Examiner and subsequently transcribed and reduced to typewritten form. It is further stipulated that the oath and signature of said Albert L. Swift be and the same are hereby waived.

ALBERT L. SWIFT, a witness called by and on behalf of the defendants, testified as follows:

4559

DIRECT EXAMINATION by Mr. Carroll:

Q. 1. Will you state your full name, age, residence and occupation? A. Albert L. Swift; fifty years old; residence, 351 West 56th Street, New York; I am vice-president of the Syndicate Publishing Company.

Q. 2. How long have you been connected with the Syndicate Publishing Company? A. Since the first of January, 1911.

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Q. 3. Have you occupied the same position during all that time? A. No.

Q. 4. What position did you occupy during part of that time? A. I did not hold any office until last fall I was elected chairman of the Executive Committee, which position I held until about two weeks ago, and some time since the first of this year I was elected first vice-president.

(*Albert L. Swift—Direct.*)

4561

Q. 5. How long have you been in the book business? A. I never handled books until my connection here with the Syndicate; my business had always been with newspapers, with other styles of printing,—never books.

Q. 6. What business were you in before you came with the Syndicate Publishing Company for some years? A. For the last fifteen or twenty years I had been in the business of supplying premium articles and premium plans to newspapers all over the country along lines of stimulating their circulation or their business office receipts, and I consolidated with this company on January 1st, 1911. 4562

Q. 7. On or about the 15th of October, 1911, did you go to Springfield, Massachusetts? A. Yes, sir.

Q. 8. Will you state what was the reason for that trip? 4563

MR. HALE: Objected to as irrelevant, immaterial and incompetent.

A. Our concern had written a letter to the G. & C. Merriam Company several days before, and they had not replied to it. I went up to endeavor to get an answer to the letter—or rather the points contained in the letter.

Q. 9. What was the occasion which prompted your concern to write that letter to the G. & C. Merriam Company? A. A letter from them to us. 4564

Q. 10. Are these letters which you referred to the same as those which have already been incorporated in the testimony of Mr. Wright, dated respectively, October 4th, 1911, a letter from the G. & C. Merriam Company addressed to the Syndicate Publishing Company, and a letter dated Oc-

4565

(Albert L. Swift—Direct.)

tober 6th, 1911, from the Syndicate Publishing Company addressed to the G. & C. Merriam Company? A. That is it.

Q. 11. When you arrived in Springfield on or about the 15th of October, 1911, where did you go?

A. I went to the offices of the G. & C. Merriam Company.

4566

Q. 12. Who did you see there? A. The first man I asked for was the president of the company, Mr. O. M. Baker.

Q. 13. Did you see Mr. Baker? A. Yes.

Q. 14. What did you say and what did he say as near as you can remember?

MR. HALE: Objected to as incompetent, irrelevant and immaterial. Complainant's counsel inquires the purpose of this line of examination, and what it is expected to prove by it.

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MR. CARROLL: Defendants' counsel answers that the purpose of the proof is obvious.

4568

A. I told Mr. Baker who I was and my connection with the Syndicate Publishing Company and explained to him that we had written him a letter several days before in reply to the one received by him, and we had not had a reply to it. I told him that we had talked it over here and decided that I would just go up and go over the matter with him verbally and ask him to outline specifically and definitely what he claimed we should do and why he claimed it. That was in substance what occurred.

Q. 15. Did you make any statement to Mr. Baker about your desire or intention to infringe any of their rights?

(*Albert L. Swift—Direct.*)

4569

MR. HALE: Objected to as incompetent, immaterial, irrelevant, and as calling for self-serving declarations.

A. I disclaimed any intention on our part and told them we would be very glad to adopt any measures to prevent any conflict of opinion on that point if he would outline definitely and specifically what would reach that end.

Q. 16. What did he say then?

4570

MR. HALE: This question and this line of examination is objected to as incompetent, irrelevant, immaterial, and as not within any issues presented by the pleadings, and it is thereupon stipulated that this objection shall apply to all subsequent questions along this line without being specifically repeated to each one.

MR. CARROLL: The purpose of this line of testimony is to show that about a month before this suit was started the defendant, Syndicate Publishing Company, went frankly to the officers of the G. & C. Merriam Company, stated that it had never supposed that it was infringing the rights of the G. & C. Merriam Company in any way, and offered to meet the demands of the G. & C. Merriam Company in every way possible so long as it should not be required that any of its legal rights be given up. The testimony will show that the president of the G. & C. Merriam Company made practically no request for changes in the books published by the defendants, except that the name "Webster" be once and for all abandoned, and the testimony will fur-

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(Albert L. Swift—Direct.)

ther show that there was no suggestion of any suit being brought.

MR. HALE: Complainant responds that defendants had already been notified that the matter was in the hands of complainant's attorneys.

4574

A. Mr. Baker said, "Quit using the word 'Webster'." I said, "Why?" Mr. Baker answered that he would give me an answer to my query by propounding another one, and he said, "Why did you use the word 'Webster'?" I did not have an opportunity of replying then.

4575

Q. 17. What then took place? A. Mr. Baker said, "Excuse me a moment." And he went into the office, the door of which we were standing against, and in a very short time he came out and invited me in and introduced me to Mr. Washburn, who was seated there, and told each of us who the other was. Then Mr. Baker took up the conversation by stating to Mr. Washburn in my presence that he had just asked Mr. Swift why we used the word "Webster," and continued by saying, "And Mr. Swift, if he were frank, would say that they used the word 'Webster' because they felt that we had built up a valuable trade right in that name, which they wanted to turn to their own account, or words to that substance. I am not attempting to give the verbatim conversation. And he wound up his statement by saying, "Isn't that so, Mr. Swift?"

4576

Q. 18. What did you answer. A. I said, "No, sir, it is not so."

Q. 19. Did you give a reason for your use of the name "Webster"? A. I said, "If you will permit me to answer the question propounded to me,

(*Albert L. Swift—Direct.*)

4577

we used the word 'Webster' because our book is founded on Webster, and because we have understood that we are entirely within our rights in using it, and if we are not, I want you to tell me why we are not."

Q. 20. Did you have any notice at or before the time when you went to the offices of the G. & C. Merriam Company in Springfield, Massachusetts, on or about the 15th of October, that the matter of the dictionary published by the Syndicate Publishing Company had been or was expected to be placed in the hands of the counsel of the G. & C. Merriam Company? A. No, sir. The only letter that I recall as having received was the letter of October 4th, which stands for itself.

4578

Q. 21. In folio 153 of the affidavit of Kirk N. Washburn, which was filed on behalf of the complainant in support of its motion for a preliminary injunction in this case, and which affidavit has by stipulation been admitted into the record of the case, Mr. Washburn states in substance that one circumstance which points to the fact alleged by him that defendant picked out the name "Webster" for the purpose of appropriating the reputation which complainant had given to that name is the circumstance that none of the competitors of the G. & C. Merriam Company have seen fit to use the name "Worcester" in connection with their dictionaries. Will you state why you did not use the name "Worcester" in connection with your dictionary? A. I presume it was probably for the same reason that the Merriam people do not use the word "Worcester" in connection with their dictionary.

4579

4580

Q. 22. What reason is that? A. On the presumption that Webster had made a better dictionary than Worcester.

4581

(Albert L. Swift—Direct.)

Q. 23. Do you suppose the Merriams have any other reason for calling their book "Webster" than that?

MR. HALE: Objected to as irrelevant and immaterial and calling for a surmise of the witness.

MR. CARROLL: Question withdrawn.

4582

Q. 24. Have you any other reason for calling your book "Webster" instead of "Worcester" than that which you have given, namely, that Webster's was a better book? A. Yes.

Q. 25. What reason is that? A. The book as we purchased it clearly stated on its certificate of copyright that was transferred to us when we purchased the same, it clearly stated that it was founded or based upon Webster.

4583

MR. CARROLL: The certificate of copyright has been offered in evidence, and accepted in evidence by the complainants in this case in connection with the affidavit of Kirk N. Washburn, and for more exact information as to its contents reference is hereby made to said certificate.

4584

Q. 26. At folio 151 of the affidavit of Kirk N. Washburn referred to in the last question it is stated that the book sold by the Syndicate Publishing Company was formerly published by the Christian Herald under the name "Crown Dictionary", that the sales of this dictionary under that name were inconsiderable, but that as soon as the name was changed from "Crown Dictionary" to "Webster's New Standard Dictionary" the sales became enormous. Mr. Washburn draws the inference from this that the whole reason for

(Albert L. Swift—Direct.)

4585

these sales was the appropriation by the Syndicate Publishing Company of the name "Webster." Will you kindly state whether the sales of the Syndicate Publishing Company's book immediately became enormous as alleged upon the change of the name from "Crown Dictionary" to "Webster's New Standard Dictionary"? A. No. They fell off very materially. The Christian Herald people told me that they put out over fifty thousand of them.

4586

MR. HALE: I object to the statement of what the witness was told as being pure hearsay and move that it be stricken out.

Q. 27. Go ahead and finish your answer? A. The Syndicate Publishing Company began to print the book in 1908 as "Webster's New Illustrated Dictionary" changing the name to conform to its title page, and the sale from that time until the first of January, 1911, was very immaterial. Then in 1911, when I put on this newspaper distribution plan, which I originated, with its immense amount of advertising, the sales became very much larger.

4587

Q. 28. When you went to Springfield on or about October 15th, 1911, did you tell Mr. Baker that a change had been ordered in the title pages of your books? A. Yes, sir. I told him that it had.

4588

Q. 29. What did you state to him with regard to this change, not with regard to your reason for making the change, which has already been covered, but with regard to the machinery of the change itself? A. I told him that we had actually ordered placed on the title pages, the notice to the effect that "These dictionaries are not pub-

4589

(Albert L. Swift—Direct.)

lished by the original publishers of Webster's Dictionary or by their successors." He told me that that was not all that was necessary in our change.

Q. 30. Did you state to Mr. Baker that the changes which you had made were to be permanent? A. Yes, sir.

4590

Q. 31. Did you state to him that you had placed the name of the Syndicate Publishing Company on the back bone of the book? A. Yes, sir.

Q. 32. At any time during the conversation with either Mr. Baker or Mr. Washburn, did either of them intimate that their company intended to bring suit against your company?

MR. HALE: Objected to as irrelevant, immaterial, no rule of law requiring notice of intended suit.

4591

A. No, they did not say that they intended to.

Q. 33. On or about October 9th, 1911, did you communicate with the various newspapers which were running the advertisement of your dictionary concerning the sale of said dictionary? A. Yes.

Q. 34. What was the nature of that communication? A. Notifying the paper in each case to carry what we call a cautionary notice.

4592

Q. 35. As far as you know have all the newspapers which are running your advertisements been instructed to insert the cautionary notice in all advertisements of your book? A. I have carefully checked up the fact that they have all been notified.

Q. 36. Do you supply the plates to these newspapers for your advertisements? A. Well, rather the copies, not always in plate form. Our contract with each paper is not uniform. Some

(*Albert L. Swift—Cross.*)

4593

occasional papers practically write their own ads, but even those we notified of the necessity of carrying those.

Q. 37. Can you state of your own knowledge that all copies which went out from you contained this cautionary notice? A. Yes, sir.

MR. CARROLL: That is all.

CROSS EXAMINATION by Mr. Hale:

4594

x Q. 38. In your conversations with Mr. Baker to which you have referred you at all times insisted upon your right to use the name "Webster" in the title of this particular dictionary; is that correct? A. Rather than insisting on our right I asked him to point out wherein we did not have that right.

x Q. 39. Your offer to him to adopt any measures to prevent any controversy between you did not include an offer to discontinue the use of the name "Webster?" A. It included everything that did not infringe upon our own rights.

4595

x Q. 40. In other words, you intended to use the name "Webster"? A. (Interposing) If we had a right to. That is the way I put it to him.

x Q. 41. Did you discuss with him the question of any cautionary notice to accompany the name "Webster?" A. I did not discuss it with him. I told him that we were now familiar with the Ogilvie decision, and that we had ordered the wording of the cautionary notice incorporated on our title page.

4596

x Q. 42. Did you intimate a willingness to go further than this? A. Yes, sir.

x Q. 43. What did you offer to do? A. It would be a repetition of what I said before, that

4597

(Albert L. Swift—Cross.)

we would do anything that he would suggest that did not infringe upon any rights that we had.

x Q. 44. Were you at that time or are you now willing to accompany your use of the name "Webster" with the cautionary notice in the following form:

4598

"This dictionary is based upon the 1847 Edition of Webster's Dictionary. It is not published by the original publishers of Webster's dictionary or by their successors."

4599

MR. CARROLL: I object to that question on the ground that Mr. Swift is not authorized by the Syndicate Publishing Company to make any further offer of settlement than that which has already been made in writing to the G. & C. Merriam Company's counsel; and on the further ground that this witness has already stated that at that time he offered to make any concessions with the G. & C. Merriam Company which would not be an abandonment of their established legal rights.

A. I would not have any authority to make a settlement.

4600

MR. HALE: The answer is objected to as not responsive and motion is made to strike it out.

x Q. 45. Does the defendant company now object to an explanatory notice in the form stated in the last question?

MR. CARROLL: Objected to on the ground that this witness has not received authority

(*Albert L. Swift—Cross.*)

4601

from the defendant company to speak for it in this matter.

MR. HALE: The question does not call for anything involving the witness' authority, but for a statement of fact as to the defendant's position in this regard as to which the witness has testified somewhat at length.

MR. CARROLL: The witness has testified as to facts about the past; what is the present or what shall be the future policy of the defendant company can only be determined by the Board of Directors of that company. 4602

A. The policy of the Company is governed by the Executive Committee of which I am not a member, therefore I don't know whether that would be acceptable or not.

x Q. 46. From what source did you get the language of the explanatory notice which you have testified you used, namely, "This dictionary is not published by the original publishers of Webster's dictionary or by their successors." 4603

MR. CARROLL: Objected to on the ground that this witness has already testified that said cautionary notice was taken from the decree in the Oglvie case.

MR. HALE: Complainant's counsel suggests that the witness on cross examination be allowed to answer the questions for himself. 4604

A. I got the wording of that from an actual copy of the Court's decision in the Oglvie case.

x Q. 47. Why did you not use the notice exact-

(*Albert L. Swift—Cross.*)

4605

ly as contained in that decision? A. We incorporated it in our title page exactly as in that decision.

x Q. 48. But not without addition and suffix incorporated in the same sentence with it? A. We did not have the same title page as Ogilvie.

MR. HALE: The answer is objected to as not responsive.

4606

x Q. 49. Will you please read upon the record the exact form of notice which you placed in your books in the month of October, 1911? A. "This dictionary has been revised and brought up to date in accordance with the best authorities and is not published by the original publishers of Webster's dictionary or by their successors, but by the well-known Syndicate Publishing Company of New York City."

4607

x Q. 50. Why did you insert the additional matter in connection with the language required by the Ogilvie decision? A. For two reasons: First, that it was a matter of fact; second, that the Merriam dictionary that was competing with us was called a Webster's condensed dictionary and was advertised in various papers on the plan that we were using as being the latest dictionary published. An examination by me showed that it was an old, obsolete dictionary. I wanted to differentiate ours from it.

4608

x Q. 51. Could not this have been done in other parts of your advertisements and notices and not in immediate connection with and as a part of the alleged explanatory notice?

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial; what could

(*Albert L. Swift—Cross.*)

4609

or could not have been done is mere speculation.

A. That is obvious. It could have been put on the cover or any place. The title page is where it would go on.

x Q. 52. Since the beginning of this suit, have you not had occasion to change that form of notice to some extent? A. Do you mean up to the present time?

4610

x Q. 53. Up to the present time? A. Yes, sir.

x Q. 54. That was by reason of the fact that a preliminary injunction was granted in this case making certain provisions in regard to that notice, was it not?

MR. CARROLL: Objected to on the ground that the record of this Court is the best evidence as to what was ordered by the preliminary injunction.

4611

A. My authority to order those changes made was instructions from the Executive Committee.

x Q. 55. And you were informed in connection with your instructions that the changes were necessitated by an injunction which had been granted? A. I don't know that I was. My inference was that it was ordered by our attorneys—or, advised by our attorneys. I don't know whether it was ever ordered by any one as a matter of fact.

x Q. 56. Were you informed of the reasons of making changes in this alleged explanatory notice which you had previously used?

4612

MR. CARROLL: Objected to as irrelevant and immaterial.

A. I don't really recall that I was. I remember Mr. Wright telling me that instead of carry-

(*Albert L. Swift—Cross.*)

4613

ing that notice in its usual form that he wanted me to put it in a separate paragraph or line, but I don't believe that I was ever given any instructions to change the wording of what is actually the cautionary notice of the Ogilvie case.

4614

x Q. 57. You have stated that the reason you used the name "Webster" upon this particular dictionary is that your book is based upon or founded upon a dictionary by Noah Webster; is that correct? A. Substantially.

x Q. 58. And that you believed that you had a legal right to use the name by reason of that fact; is that correct? A. That is correct as far as it goes.

x Q. 59. What is needed to make it absolutely correct? A. My further belief that anyone has a right to use the word "Webster" and the reason for that belief is the reading of the various Court decisions.

4615

x Q. 60. What do you mean by the phrase "based upon Webster's dictionary" as used by you? A. I did not originate that phrase. I found it in the original copyright. I can tell you what it means to my mind.

4616

x Q. 61. You have used the phrase in your testimony, and have testified that you told Mr. Baker, complainant's president, that your book was based upon the dictionary of Noah Webster, and that therefore you used the name "Webster" upon your book. What did you mean by the word based in those statements? A. The word "based" to me would mean being founded upon.

x Q. 62. What does "founded upon" mean in that connection? A. Based upon.

x Q. 63. Will you please explain those terms a little more fully? A. Well, the word don't

(*Albert L. Swift—Cross.*)

4617

occur to me; a foundation or ground word would be sufficient to give me the idea of "based upon."

x Q. 64. Do you mean by "founded upon" or "based upon" that the dictionary of Noah Webster was actually used in the compilation of your book and some portions of the matter transferred from Noah Webster's book into your book? A. Well, I am not an expert on the compilation of dictionaries. I have given the explanation of what my idea of the word "based" and "founded upon" means.

4618

x Q. 65. Does it mean what I have included in my last question to you? A. It might include that.

x Q. 66. But does it? A. Did it or does it?

x Q. 67. Does it include that in the sense in which you used those terms? A. I don't know now what you want me to answer any more fully than I have answered it. See if you can make it a little plainer to me. Do you mean, do I know as a matter of fact whether matter was taken from one book and placed in the other?

4619

x Q. 68. I do not. I want to know the meaning of the assertion which you made in your direct testimony and the meaning of the assertion which you made to Mr. Baker in the interview at Springfield in which you stated that your book was based upon the dictionary of Noah Webster. What did you mean by that? A. You don't want the reason for my meaning; you want the actual meaning.

4620

x Q. 69. The actual meaning? A. I cannot go into it any further than based upon or founded upon. I don't know what my reason for thinking it was founded upon it is.

x Q. 70. Did you mean to assert in that statement that your dictionary actually contains any

4621

(Albert L. Swift—Cross.)

matter taken from the dictionary of Noah Webster? A. I did not have anything in mind any further than as I have stated. We had a comparison made and found that it was similar in the principles enunciated by Webster and in the matter of word definitions and so forth. I cannot get more explicit than that any way that I know of.

4622

MR. HALE: So much of the witness' answer beginning with the words "We had a comparison made" and continuing to the end of the answer is objected to as not responsive and motion is made to strike it out.

4623

x Q. 71. Do you know of your own knowledge whether or not any dictionary with which Noah Webster ever had anything to do was actually used in the compilation of the dictionary published by the defendant in this case?

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial; this witness has stated that he is not an expert on dictionaries.

4624

A. I did not see the copy prepared for the original of our book, but I saw it compared with Webster's 1847 and found them similar, not similar in general, but actually the same.

x Q. 72. Are you referring to the comparison made by Professor Peck, the results of which were offered upon the motion for preliminary injunction in this case? A. I don't know of anything being offered by Professor Peck or testified to.

x Q. 73. Now, will you please answer whether

(*Albert L. Swift—Cross.*)

4625

or not you know of your own knowledge or not any dictionary with which Noah Webster ever had anything to do was actually used in the compilation or preparation of the defendant's dictionary?

MR. CARROLL: Objected to as irrelevant and immaterial; already having been answered.

A. The furthest back supposed Webster that I know anything about is the 1847, and I have heard that Webster did not even have anything to do with that, but whether that is a fact I could not state of my own knowledge.

4626

MR. HALE: The answer is objected to as not responsive.

x Q. 74. Do you know of your own knowledge whether or not any dictionary of Noah Webster was actually used in the compilation of defendant's book? Please answer yes or no; the question calls for your own personal knowledge? A. Do I know whether any book gotten out by Webster was used in the compilation of our book? I cannot answer that no, or I cannot answer it yes. I have taken the book which I supposed was Webster's and gone over the comparison and yet I don't know whether the 1847 is Webster's or not. That is if you mean whether he actually did the editorial work on it.

4627

4628

x Q. 75. Do you know of your own knowledge whether the 1847 edition of Webster's Unabridged Dictionary was actually used in the compilation of defendant's book?

MR. CARROLL: Objected to as having been already answered, as being irrelevant and immaterial.

(*Albert L. Swift—Cross.*)

4629

A. I don't know. I would only judge so from the comparison of the two.

x Q. 76. In other words all that you know about the source or origin of the matter contained in defendant's book is based upon such comparison as you have made of it with the 1847 edition; is that correct? A. And my belief in the statement on the copyright that we purchased.

4630

x Q. 77. You don't know whether that statement is true or not? A. I am satisfied it is true, because it is borne out by this comparison that I speak of.

x Q. 78. You do not know, except as based upon the comparison which you have made? A. That is all, yes, sir.

x Q. 79. Who compiled the defendant's book? A. I don't know.

4631

x Q. 80. It is stated in the answer that it was prepared by a Mr. Roe and a Mr. Stuart. Do you know either of these gentlemen? A. No, sir.

RECESS TO TWO THIRTY P. M.

AFTER RECESS.

x Q. 81. Do you know the present address or location of either of these gentlemen? A. No, sir.

4632

x Q. 82. Has either one ever been employed by or in any way connected with the Syndicate Publishing Company? A. I don't know.

x Q. 83. You were not with the Syndicate Publishing Company at the time they changed the name of your book from Crown dictionary to Webster's dictionary and have no first hand knowledge of anything that occurred at the time?

(*Albert L. Swift—Cross.*)

4633

A. No, I just simply made a careful investigation of all the records of it.

x Q. 84. You personally had nothing to do with the adoption of the name "Webster" by the defendants? A. No.

x Q. 85. If it be a fact that defendant's book is based upon the 1847 edition of Webster's Unabridged dictionary, what is the objection to incorporating such statement in the explanatory notice?

4634

MR. CARROLL: Objected to, inasmuch as this witness has not testified that there was any objection to incorporating such a statement in the notice, but simply that he did not know what the policy of the Syndicate Publishing Company was with respect to such insertion.

MR. HALE: This witness is the vice-president of the defendant and has been a member of its executive committee. It is entirely proper to ascertain the fact inquired about of him.

4635

A. I can only express my personal opinion of an objection, which would be that I would consider it irrelevant.

x Q. 86. Do you consider it irrelevant to tell the whole truth about your book? A. There are many items of truth about the book as to the press run of each edition and all of that that I would consider irrelevant.

4636

x Q. 87. I mean the truth about its connection with any Webster dictionary? A. Well, all pertinent truths there would be no objection to.

x Q. 88. Is there then any objection to stating

(*Albert L. Swift—Cross.*)

4637

the particular edition upon which the defendant claims to have made its book?

MR. CARROLL: Objected to as having already been fully answered in previous questions.

A. My objection would simply be a personal objection; I would consider it entirely irrelevant.

4638

x Q. 89. Is there any commercial or business reason why it should not be stated that it is the 1847 edition of Webster upon which defendant's book is based, if that be in truth the fact? A. I don't know of any damage it would do us, speaking personally.

x Q. 90. How many editions of this book have been published by defendants since your connection with them?

4639

MR. CARROLL: Objected to, and I direct the witness not to answer.

(Witness withholds answer.)

MR. HALE: The Examiner is requested to certify this question to the most convenient Judge for a ruling as to the propriety of the question.

4640

x Q. 91. Have you any information whatever as to where Mr. Roe or Mr. Stuart, who are named in defendant's answer, may be found? A. No, I have not.

x Q. 92. What precise part of the defendant's business comes under your immediate supervision or observation? A. At the present time?

x Q. 93. At various times during your connection? A. Well, practically I installed the newspaper premium feature in this business.

x Q. 94. When was that? A. In January, 1911.

(*Albert L. Swift—Cross.*)

4641

That is, I don't mean that they had never done anything of that kind, but practically a small issue.

x Q. 95. Continue with your answer. A. Well, that is about all. I have generally superintended the work with the newspapers.

x Q. 96. Who prepares the advertising matter and notices which have appeared in the newspapers? A. I did originally.

4642

x Q. 97. Up to what date? A. Well, everything that has been done since has practically been an offshoot of my original work; since then I practically supervised it.

x Q. 98. Who has prepared this matter since you ceased to do so personally? A. Well, I have always had assistants under me.

x Q. 99. Who since January 1, 1911, naming all of them, have prepared the newspaper publicity? A. I have been pretty much responsible for it; that is, I have not read every detail of it and every line of it, but I have held the responsibility for it. In addition to me, my assistant, Mr. Johnson; then we have quite a number of assistants in the way of clerks, filing clerks, and things of that kind, but as far as applying to the wording of the advertisements that ought to hit either Mr. Johnson or myself practically all the time.

4643

x Q. 100. As carried on the copy is prepared by the Syndicate Publishing Company through some of the gentlemen named. Is this set up, then, by the newspapers or do you furnish plate matter? How is that done? A. Both ways. Some of it that has been printed has been prepared by newspapers.

4644

x Q. 101. Can you designate in any way what

(*Albert L. Swift—Cross.*)

4645

newspapers or what matter has been prepared by them? A. Some newspapers change our copy, some reserve that right to do so, some do it anyhow; just don't follow our schedule.

x Q. 102. Can you name some of the newspapers that reserve the right to change your copy? A. New York American, Boston Herald—as a matter of fact, Mr. Hale, practically all papers reserve that right.

4646

x Q. 103. And what is the purpose and extent of such reservation? A. Simply that the papers have the final say-so as to anything that goes in their columns. Then we will often send a large ad and the exigencies of printing the paper won't permit it being used. They pick up an ad a month old, a similar one on that date.

4647

x Q. 104. You know, do you not, that even since the beginning of this suit some of the advertisements of your dictionary have been published in newspapers without any warning or explanatory notice? A. Yes, my attention has been called to one or two cases.

x Q. 105. When did you first put such warning notice in the coupon advertisement which appears in the various papers in addition to the ordinary advertisements? A. I don't know. Our order was issued to put it on all advertising on October 9th.

4648

x Q. 106. You know as a matter of fact, do you not, that such notice was never inserted in the coupon advertisements until the preliminary injunction in this suit was issued some time in March of this year? A. No, I don't know that of my knowledge.

x Q. 107. Can you ascertain the fact here in this office?

(*Albert L. Swift—Cross.*)

4649

MR. CARROLL: Objected to as irrelevant and immaterial.

A. I would not know how to. We don't keep a record of those matters.

x Q. 108. Did you at any time give instructions to any person or to any newspaper or prepare any new or revised copy for coupon advertisements for the purpose of having the warning notice inserted in those advertisements? A. On October 9th we instructed every paper in all of their advertising to use the cautionary notice.

4650

x Q. 109. You continued to furnish copies for the coupon advertisements which did not contain this notice after October 9th? A. Not to my knowledge.

x Q. 110. Have you any knowledge or information as to a letter being sent by complainant's counsel in this case calling attention to the fact that the coupon advertisements had not contained the notice required by the preliminary injunction? A. No.

4651

x Q. 111. You have no information on that subject whatever? A. No. Anything like that would have to come in under my trip out. I am away about half the time.

x Q. 112. What is the fact according to the best of your knowledge, information and belief as to whether or not the coupon advertisements published in the newspapers have contained any warning notice prior to, say, March 1st, 1912? A. I don't believe that I know of any that contained it. Under our contracts with papers we don't pay for the coupon advertising, so we more rigorously scrutinize our own paid advertising display.

4652

(*Albert L. Swift—Cross.*)

4653

x Q. 113. Is the coupon advertisement in whole or in part printed from plates or cuts furnished by the defendant? A. We send out plates with the coupon advertisements; the paper does not follow them.

x Q. 114. You mean never? A. No, no, not always.

4654

x Q. 115. Isn't the plate used with changes to adapt it to the paper of various names and the dates of issue? A. Oh, there is a mortise line; just a date line. The Boston Herald, for instance—we never send them the coupon they use.

x Q. 116. Since the preliminary injunction was granted in this case, have your advertisements always contained the warning notice there required, printed in a separate line or paragraph by itself? A. All copies sent by us since then have contained that.

4655

x Q. 117. I show you an advertisement cut from the Aurora Daily Beacon News of May 4th, 1912, and call your attention to the warning notice therein contained. Is not that notice in the form which you adopted in October, 1911, instead of being printed in a separate colum or paragraph such as has been sometimes used since the granting of the preliminary injunction?

4656

MR. CARROLL: Objected to as not the best evidence, the advertisement speaks for itself.

A. Yes.

MR. HALE: The advertisement is offered in evidence and the same is received and marked Complainant's Exhibit, Defendant's Advertisement of May 4th, 1912, J. A. S. Ex'r., May 10th, 1912.

(*Albert L. Swift—Cross.*)

4657

x Q. 118. Prior to the adoption and use by you of the statement which you say you adopted in October, 1911, did the name of the Syndicate Publishing Company as the publisher of this book appear in any of this newspaper advertising? A. Yes, in some.

x Q. 119. Will you please point out or indicate in any way in which advertising it appeared? A. I would have to look it up.

x Q. 120. Will you please look it up and give us the information at a later date? A. Yes.

4658

x Q. 121. Please look at the advertisements contained in "Complainant's Exhibit Defendant's Advertisements" and indicate by name of paper and page of exhibit any advertisements which contain the name of the Syndicate Publishing Company as the publisher of the dictionary advertised?

MR. CARROLL: Objected to; the advertisements speak for themselves.

4659

(The witness declines to answer under advice of counsel.)

x Q. 122. It is a fact, however, that the great majority of the advertisements used in the newspaper campaign to which you have referred issued prior to October, 1911, did not contain the name of the Syndicate Publishing Company as the publisher of the dictionary advertised?

4660

MR. CARROLL: Objected to; the advertisements themselves are the best evidence, and I direct the witness not to answer.

MR. HALE: Complainant is in possession of only some specimen advertisements used by defendant. The question relates to any and all advertisements issued by the de-

(*Albert L. Swift—Cross.*)

4661

fendant and complainant has no other means of obtaining the information except through this witness. An answer is therefore insisted upon.

(The witness declines to answer under advice of counsel.)

4662

MR. HALE: The examiner is requested to certify this question to the most convenient judge for a ruling as to the propriety of the question and the sufficiency of the answer.

x Q. 123. Will you please designate any advertisements issued in this newspaper campaign prior to October, 1911, which gave the name of the Syndicate Publishing Company as the publisher of the dictionary advertised?

4663

MR. CARROLL: Objected to as having already been answered.

A. Only an examination of the ads would show me.

x Q. 124. Will you make such an examination and produce a list of such papers? A. Impossible. I don't know just how to go at it to find ads that old. We carry them out here by wagon loads every morning.

4664

x Q. 125. In view of the fact that this advertising is under your supervision are you able to state that the name of the Syndicate Publishing Company as the publisher of the dictionary advertised has never been given in any of the advertisements used in this newspaper campaign except since October, 1911, and then only in connection with the alleged warning statement that "This dictionary has been revised and brought up to this present date in accordance with the best

(*Albert L. Swift—Cross.*)

4665

authorities and is not published by the original publishers of Webster's dictionary or by their successors, but by the well-known Syndicate Publishing Company of New York City."

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial; the advertisements themselves being the best evidence of what they contain.

A. I am not able to state that the name "Syndicate Publishing Company" has never been used in advertising previous to October, 1911. I desire to change my answer by reason of the question being involved to read as follows:

4666

I am not able to state that.

x Q. 126. Does the defendant keep an advertising register or the equivalent in which copies of all advertisements issued are preserved? A. No. We simply measure them up for space.

x Q. 127. In October, 1911, when you first changed your title page and advertisements so as to carry what has been termed an explanatory or warning notice, did you have a quantity of manufactured dictionaries on hand which did not contain that notice? A. Yes.

4667

x Q. 128. What did you do with them? A. I cannot tell. I know that at some time they made their correction in all manufactured books on hand, but whether it was in October or at a later date I don't know.

4668

x Q. 129. Was that not after the preliminary injunction had been granted? A. I cannot state.

x Q. 130. Was it not after March 1st, 1912, at least? A. I cannot state. I have a pretty good impression that it was after the preliminary injunction, but I cannot state as a matter of fact. There will be somebody that can.

4669

(Albert L. Swift—Cross.)

x Q. 131. In order to refresh your memory, I call your attention to the affidavit made by you and verified on February 9th, 1912, which was used upon the motion for a preliminary injunction herein in which you state as follows:

4670

“At the same time we changed our title page by printing the above quoted language at the top thereof, and in such dictionaries *as were in process of manufacture*, we substituted the new title page with said inscription and we also gave orders at that date to have the name of the Syndicate Publishing Company printed in gilt letters at the foot of the back of the cover of each dictionary and all our dictionaries manufactured since that date have had our name thus prominently printed there.”

This statement refers to the date October 9th, 1911.

4671

Your recollection at that time was fully as good as it is now, was it not? A. All that was a fact then and still is now as far as it goes.

4672

x Q. 132. You said nothing at that time as to any changes in completely manufactured books. With your memory thus refreshed are you able to state that the insertion of the notice in completed books was made subsequent to that date? A. It would be impossible to state. There is no possible way that I would know that we had one completed book. The majority of our time we would not have any stock on hand to fill our orders.

x Q. 133. On October 9th, 1911, were there quantities of dictionaries in the hands of newspapers or other persons handling them which did not contain this notice? A. I could not tell. Undoubtedly there would be, but of my own knowledge and belief as to seeing them there, I don't know. I would think so.

(*Albert L. Swift—Cross.*)

4673

x Q. 134. Did the defendant in any way caution newspapers or other persons having these dictionaries to dispose of, not to dispose of them without inserting the cautionary notice? A. May I inquire, do you mean papers to whom we had sold books previous to October 9th?

x Q. 135. Yes. A. Not to my knowledge.

x Q. 136. As one of the defendant's managers, and as the one particularly in charge of the newspaper distribution, you would know that fact if it were a fact, would you not? A. No.

4674

x Q. 137. Who would know it? A. I don't know. I had nothing at all to do with the manufacture except as I would just on my own motion keep track of it. Mr. Wright attended to all the manufacturing.

x Q. 138. I am not speaking of the manufacturing; I am asking whether on or about October 9th, the defendant instructed persons to whom it had previously shipped books for distribution not to sell or dispose of them except in connection with a warning or explanatory notice? A. I have answered that fully, that I did not send such a notice to anyone to whom we had sold books previous to that date, and I have no knowledge that anyone else did or that they did not.

4675

x Q. 139. Who would have absolute knowledge of that fact? A. I would not know without it would be Mr. Wright.

x Q. 140. If any such notices were sent, defendant would have copies of them preserved in its office, would it not? A. I don't know.

4676

x Q. 141. You have stated that you instituted this newspaper plan of distribution of this dictionary. Please state the general nature of the scheme as actually operated by defendant. A.

4677

(Albert L. Swift—Cross.)

I decline to answer this question for the reason that the complainant company have from the start of our original scheme endeavored to secure our contract forms and other forms that have made this a successful campaign, and have as a matter of fact secured and are using a large portion of these original forms, plans and methods of our own. We decline to furnish them any further assistance in this line.

4678

MR. HALE: The answer and statement of the witness is objected to as not responsive, and as a volunteered statement of the witness which is incompetent, irrelevant and immaterial and not in accordance with the facts, and motion is made to strike it out.

4679

The Examiner is requested to certify the question to the Court for a ruling as to the propriety of the question and the duty of the witness to answer.

MR. CARROLL: And objection is made to this question on the ground that it is incompetent, irrelevant and immaterial, and on the further grounds stated by the witness, which said statement of the witness is made a part of this objection.

4680

x Q. 142. Are the dictionaries distributed through the newspapers sold outright to the newspapers or are they consigned to them and subject to return if not distributed by the papers?
A. What dictionaries?

x Q. 143. The defendant's dictionaries sold in connection with the newspaper coupon scheme?
A. Your question cannot be answered by yes or no; it would have to be yes and no. I will have to

(*Albert L. Swift—Cross.*)

4681

know what particular dictionaries you mean. We have done business both ways.

x Q. 144. Have you done business both ways concurrently or did you do business during one period one way and during another period another?

MR. CARROLL: I object to this whole line of examination as coming within the objection which has already been made and upon which the witness refused to answer the question before the last. 4682

MR. HALE: An answer is insisted upon, such an answer involves no disclosure of trade secrets. It is obviously material to know whether these newspapers are selling their own books after having completed a purchase of them from the defendant or whether the defendant still retains any right, title or interest in such books, until they are disposed of to the ultimate purchaser. 4683

A. Concurrently.

x Q. 145. Were any of these dictionaries disposed of by newspapers upon a commission basis in which the newspaper obtained a commission upon the amount sold?

MR. CARROLL: Same objection.

4684

A. I will not answer for the reason given in my previous refusal.

MR. HALE: The Examiner is requested to certify this question to the Court for a ruling as to its propriety and the duty of the witness to answer the same.

4685

(Albert L. Swift—Cross.)

x Q. 146. In what manner were the newspapers paid for the advertising they used in this dictionary distribution?

MR. CARROLL: Same objection.

A. Different ways.

x Q. 147. Please specify the different ways?

A. I refuse to answer for the same reason.

4686

MR. HALE: The Examiner is requested to certify this question also for a ruling of the Court.

x Q. 148. Did the defendants pay full advertising rates for the space occupied by the advertisements of these dictionaries in connection with the newspaper coupons?

MR. CARROLL: Same objection.

4687 A. Same reply.

MR. HALE: Same request to the Examiner.

x Q. 149. Does the defendant employ standard forms of contracts with the newspapers for use in this plan of distribution?

MR. CARROLL: Same objection.

4688

A. Several different ones. We were forced to change our original form after we discovered that the complainant's representative had secured one of our forms when he was in our employ.

MR. HALE: The concluding portion of the answer beginning with the words "We were forced," and so forth, is objected to

(*Albert L. Swift—Cross.*)

4689

as not responsive and as incompetent, irrelevant and immaterial, and motion is made to strike it out.

x Q. 150. Please produce blank forms of the contracts with newspapers which have been used up to the institution of this suit.

MR. CARROLL: Same objection.

A. Refused.

4690

MR. HALE: The Examiner is requested to certify this question also to the Court for a ruling as to the duty of the witness to produce the papers called for. Defendant's counsel are called upon to produce for use in evidence in this case copies of the forms of contracts referred to by the witness, such contracts being those used in connection with the newspaper distribution of defendant's dictionary during the year 1911, and prior to the institution of this suit.

4691

MR. CARROLL: Defendant's counsel declines to produce any such forms of contracts on the ground that the business relations between the Syndicate Publishing Company and the newspapers is entirely irrelevant and immaterial in a suit brought by the G. & C. Merriam Company against the Syndicate Publishing Company based upon allegations of unfair competition, and on the further ground that this is an obvious attempt by counsel for the complainant to pry into the secret business relations of the defendants by means of this examination.

4692

MR. HALE: The purpose of this line of examination is to fix the defendant with

4693

(Albert L. Swift—Cross.)

responsibility for the deception of purchasers who have purchased this book through the newspapers who have in turn obtained it from the defendant, the Syndicate Publishing Company. If the defendant will by stipulation on the record assume responsibility for all advertisements of their dictionary which have appeared in the newspapers and for all deception of purchasers who have obtained such dictionary from said newspapers, complainant will not press this line of examination.

4694

MR. CARROLL: Defendants decline to make such a stipulation.

x Q. 151. Whatever the details of this newspaper scheme may be, it was brought by you to the defendant when you came to it; is that correct?
A. I instituted it.

4695

x Q. 152. Do these contracts with newspapers contain any stipulations in respect to the contents of advertisements which shall appear in said papers?

MR. CARROLL: Same objection.

A. I decline to answer.

MR. HALE: Same request to the Examiner to certify the question to the Court.

4696

x Q. 153. What is the highest price at which any edition of defendant's dictionary has been sold since your connection with the defendant? I don't mean wholesale price or anything like that; I mean per copy put out to the customer?

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial.

(*Albert L. Swift—Cross.*)

4697

A. I decline to answer.

MR. HALE: The Examiner is requested to certify the question to the Court for a ruling.

x Q. 154. Has defendant had this book regularly on sale in bookstores since the beginning of this newspaper campaign? A. I refuse to answer for the reason that I do not care to explain to the complainant where our trade lies, or any portion of it.

4698

MR. HALE: The answer of the witness is objected to as not responsive, and motion is made to strike it out, and the Examiner is requested to certify the question to the Court for a ruling as to its propriety and the sufficiency of the answer, and the duty of the witness to answer same fully.

x Q. 155. Has this book ever been sold in bookstores to your knowledge?

4699

THE WITNESS: Same refusal for the same reason originally given.

MR. HALE: Same request to certify the same to the Court.

x Q. 156. Were these contracts with newspapers negotiated by correspondence or by personal interview?

4700

MR. CARROLL: Objected to as irrelevant and immaterial.

A. Same refusal.

MR. HALE: Same request to the Examiner to certify to the Court.

4701

(Albert L. Swift—Cross.)

x Q. 157. Please give a list of all the newspapers which have distributed this book under contract with the defendant company since January 1st, 1911, and prior to the institution of this suit; that is to say, under contracts made or dated in that period? A. I refuse to give you the details of our relations with our customers.

4702

x Q. 158. The question does not ask for details? A. Any details whatever.

MR. HALE: The Examiner is requested to certify this question to the Court for a ruling as to the propriety of the question and the duty of the witness to answer same and give information called for.

4703

x Q. 159. In addition to the ordinary newspapers who have engaged in the distribution of this book, has it also been distributed through other periodicals? A. Same refusal.

MR. HALE: Same request to the Examiner to certify the question.

x Q. 160. Please give a list of all the periodicals through whom this book has been distributed prior to the beginning of this suit? A. Same refusal to answer.

4704

MR. HALE: Same request to the Examiner to certify the question.

x Q. 161. Please state how many of defendant's dictionaries were distributed through this newspaper campaign prior to the institution of this suit?

MR. CARROLL: Objected to as irrelevant and immaterial.

(*Albert L. Swift—Cross.*)

4705

A. I don't know.

x Q. 162. As vice-president of the defendant and as one of its managers, have you information sufficient to say whether or not the defendant has distributed upwards of five hundred thousand copies of this dictionary through the newspapers of this country in what has been termed this newspaper campaign? A. Up to date?

x Q. 163. Up to date, yes.

4706

MR. CARROLL: If you answer the questions precisely, I have no objection to it.

Answer yes or no, whether you have such information.

A. I have not that definite information.

x Q. 164. Where can that information be obtained and from whom? A. I think you could not obtain it.

x Q. 165. Has the defendant no means of knowing how many dictionaries it has disposed of through the newspapers since January 1st, 1911?

4707

A. I presume it has.

x Q. 166. Will you procure that information and testify to it upon the record? A. No.

x Q. 167. You have testified that this newspaper scheme devised by you resulted in enormously increased sales of this dictionary by defendant. Please state the extent to which such sales were increased to an extent termed by you "enormous" or "enormously?"

4708

MR. CARROLL: The question is objected to on the ground that incorrectly summarizes the witness' testimony; the only testimony that was given by the witness on this subject was in answer to one of the

(*Albert L. Swift—Cross.*)

4709

questions of defendant's counsel in which defendant's counsel quoted from the affidavit of Kirk N. Washburn in which the the word "enormously" was used. The witness in his answer did not use the word "enormously"; he simply stated that the sales were largely increased after his business campaign began. Reference to the testimony will show that this is the fact (see Q. 27).

4710

A. I did not use the word "enormous," but used the expression "very largely increased."

x Q. 168. Upon what information as to amount of sales was that answer based? A. Just a general knowledge of what we were doing.

4711

x Q. 169. Having answered from such general knowledge on behalf of the defendant, please answer upon the same knowledge, and state the minimum approximate number of dictionaries disposed of through this newspaper scheme of yours subsequent to January 1st, 1911?

MR. CARROLL: Objected to as irrelevant and immaterial. The question was asked in the first place by defendant's counsel simply in rebuttal of the testimony of Mr. Washburn. It has already been sufficiently answered for that purpose.

4712

MR. HALE: Defendant's counsel is reminded that this is cross-examination, and complainant is entitled to a full and complete statement.

MR. CARROLL: Complainant's counsel is reminded that this is not an accounting and that therefore the amount of defendant's sales is quite immaterial.

(*Albert L. Swift—Cross.*)

4713

MR. HALE: Defendant's counsel opened the door.

A. I could not do it.

x Q. 170. According to your best recollection, information and belief, is that number in excess of five hundred thousand copies? A. I refuse to guess on it.

MR. HALE: Complainant's counsel is unable to complete the cross-examination of this witness until the questions certified to the Court have been ruled upon and the witness has answered such questions as the Court rules should be answered.

4714

MR. CARROLL: Defendant's counsel requests complainant's counsel to ask now any further questions which he may have to ask so that they may all be certified to the Court at once, in order to avoid the necessity of going twice to the Court.

4715

MR. HALE: Complainant's counsel so far as at present advised has completed the cross-examination of this witness, except so far as the questions to be certified remain unanswered and such questions as may grow out of the answers which the witness may make to such questions. The Examiner is requested to adjourn the further examination of this witness until the questions have been ruled upon by the Court.

4716

(Further hearing adjourned to Thursday, May 16th, 1912, at 1:30 P. M.)

4717

NEW YORK, Thursday, May 23d, 1912.
2 P. M.

Met pursuant to adjournment noted on page 1123 of this record.

Present—Counsel as before.

A. L. SWIFT, resumes the stand.

CROSS EXAMINATION continued by Mr. Hale:

4718

x Q. 171. I show you an advertising leaflet and ask you if you can identify that as one of the advertising leaflets or circulars issued by the defendant Syndicate Publishing Company? (Handing witness leaflet) A. No. It is not anything I have ever come in contact with.

x Q. 172. I understand that this was issued by the defendant some time during year 1910. Do you know anything about it whatever? A. No, I was not with the defendant then.

4719

x Q. 173. How many editions of defendant's dictionary were issued in the year 1911 up to the time of the suit? A. I would not know.

x Q. 174. By editions, I mean printings of the book with revisions or changes embodied in it? A. I understand. I would not know.

x Q. 175. In addition to being an officer of the defendant, you are a member of its Board of Directors? A. Yes, sir.

4720

x Q. 176. I presume you do not hold a controlling interest in the Syndicate Publishing Company? A. Only shares issued to me for the purpose of qualifying as a director.

x Q. 177. During 1911, did defendant have its dictionary regularly on sale in retail bookstores,

(*Albert L. Swift—Cross.*)

4721

and if so, to what extent? Answer fully. A. I would not know whether they did or not, by reason of my work being almost wholly with the newspapers.

x Q. 178. Did the defendant have a retail list price for its book during the year 1911? A. I am such a bum book man that I don't know what retail list price means. I will ask you, what do you mean by a retail list price?

x Q. 179. As publisher, do you not know what a list price is? A. I have never published books.

4722

x Q. 180. Your company has, though, and you have been a member of its Executive Committee, have you not? A. I have been a member of its Executive Committee, was for a few months, but I don't consider myself a publisher; I don't know the usages or the terms.

x Q. 181. While you were a member of the Executive Committee of the Syndicate Publishing Company, the question of fixing a list price for your books was never brought to your attention; is that correct? A. I don't recall it.

4723

x Q. 182. Did defendant sell any books by subscription or through canvassers during the period of your connection with it, to your knowledge? A. Yes.

x Q. 183. How many canvassers did it have employed? A. A large number.

x Q. 184. About how many? A. Well, that did not fall in a department that I was connected with, and I would not be able to say how many. Mr. Wright would know.

4724

x Q. 185. Were these canvassers regularly in the employ, receiving salaries from the defen-

4725

(Albert L. Swift—Re-Direct.)

dant? A. I don't know whether they worked on salary or on commission.

x Q. 186. At what prices were these canvassers authorized to sell the dictionary? A. I recall that the dictionary was part of a set of six books, of which the dictionary comprised two volumes, and the entire set sold for eighteen dollars on subscription.

4726

x Q. 187. Was this the work known by the name of "New Century Reference Library" which your president, Mr. Wright, has referred to in his testimony? A. I have not seen his testimony, and I don't recall the exact name of the series, as I never sold it personally.

x Q. 188. Has this dictionary been sold by canvassers except as part of that set, to your knowledge? A. I would not know.

4727

MR. HALE: Cross examination closed. The request to the Special Examiner to certify certain questions arising on the examination of this witness is withdrawn.

RE-DIRECT EXAMINATION by Mr. Carroll:

4728

Re-D. Q. 189. On cross examination question No. 104, you were asked whether or not you knew that since the beginning of this suit, some of the advertisements of your dictionary have been published in newspapers without any warning or explanatory notice. You answered, "Yes. My attention has been called to one or two cases." How was your attention called to those cases?

MR. HALE: Objected to as irrelevant and immaterial.

A. By complainant.

(*Albert L. Swift—Re-Direct.*)

4729

Re-D. Q. 190. Did you investigate those cases?
A. Yes, sir.

Re-D. Q. 191. What did you discover? A. That the fault was due to the fact that the newspaper had again repeated an old ad sent them weeks previous to the time.

Re-D. Q. 192. Approximately when did you discover that those advertisements had been sent to them, or before what date? A. I recall one in particular, the Mobile Item that our attention was called to, an advertisement printed toward the middle of December, and I found it was a repetition by the paper of an advertisement sent them early in September, of which they had just again used the matrix of the advertisement they had previously set up.

4730

Re-D. Q. 193. On the cross examination of Mr. Wright, he was asked to produce a copy of the letter which you have both stated was sent out to all the newspapers at the time when the cautionary notice was inserted on the title page of your dictionaries. Mr. Wright did not produce a copy of that letter. Can you produce a copy of that letter? A. No, I cannot. I have endeavored to do that.

4731

Re-D. Q. 194. Have you a copy of the letter in your files? A. I was unable to find it.

Re-D. Q. 195. Can you give the contents of that letter? A. It was a letter that I wrote at the same time that I sent the letter to Mr. Johnson, signed by Mr. Wright and I would like to explain that in many instances we send a circular letter to the papers on the list with whom we are running this circulation scheme and they have been treated as circular letters, and no carbons kept of them. Occasionally we look for a carbon of something we

4732

(Albert L. Swift—Re-Direct.)

4733

know we have attended to and find it had gone out in general or circular form.

Re-D. Q. 196. Did you send these letters out yourself? A. Yes.

Re-D. Q. 197. You know of your own knowledge that they went to all newspapers that were on your list at that time? A. All that were on our list.

4734

Re-D. Q. 198. Was the contents of the letter substantially the same as the contents of the letter which you sent to Mr. Johnson? A. It was, yes, sir.

Re-D. Q. 199. And which is already in evidence? A. Yes.

Re-D. Q. 200. Did you also send with each one of the letters to the newspapers a sticker in the form which I show you (handing witness sticker)? A. Yes, that is what impresses it so clearly on my mind.

4735

MR. CARROLL: I read the text of the sticker which the witness has just testified having sent to the newspaper with his letter into the record:

"This dictionary has been revised and brought up to the *present date* in accordance with the best authorities and is *not* published by the original publishers of Webster's Dictionary, or by their successors, but by the well known Syndicate Publishing Company of New York City."

4736

Re-D. Q. 201. On cross examination you were asked, question 127, "In October, 1911, when you first changed your title page and advertisements so as to carry what has been termed an explanatory or warning notice, did you have a quantity

(*Albert L. Swift—Re-Direct.*)

4737

of manufactured dictionaries on hand which did not contain that notice?" You answered, "Yes." Was that answer correct? A. I have looked it up since, and I find that after September 1st, and until the end of the year we never had a quantity of manufactured books on hand, but were always behind on our orders, and I am therefore satisfied that on October, 1911, there were no stock of books on hand that could have been corrected. Corrections were simply made on the title pages of the work in hand.

4738

Re-D. Q. 202. In your answer to question 130, you said, "I have a pretty good impression that the correction was made in manufactured books after the preliminary injunction, but I cannot state as a matter of fact." Have you since looked up this matter? A. I have since looked up this matter.

Re-D. Q. 203. And refreshed your recollection? A. And I find that all books that have come into our possession by return from papers to whom we had sold them have been corrected in regard to the title page and the cover stamped as fast as they have been received.

4739

Re-D. Q. 204. On question 117, counsel for complainant offered in evidence an advertisement cut from the Aurora Daily Beacon News of May 4th. Did you have anything to do with that advertisement? A. It looks like one that I have looked up since then.

4740

Re-D. Q. 205. Was the copy for that advertisement sent out before the preliminary injunction? A. Yes.

MR. CARROLL: That is all.

4741 (Albert L. Swift—*Re-Cross.*)

RE-CROSS EXAMINATION by Mr. Hale:

Re-x Q. 206. The advertisement last referred to, appearing in the Aurora Daily Beacon News on May 4th, 1912. How do you know that the copy was sent prior to the preliminary injunction in this case? A. I looked up the record from which it was sent.

4742 Re-x Q. 207. What sort of a record have you? A. A record showing what date certain copies are sent.

Re-x Q. 208. Do you mean you have a copy of this advertisement? A. No.

Re-x Q. 209. What exactly does your record show on that subject? A. The name or number of the ad.

4743 Re-x Q. 210. What is your system as to naming or numbering ads, so that I can understand your testimony? A. For instance, this ad is what we call a closing ad. We have a record of when we sent the closing copy, just the word "closing."

Re-x Q. 211. Your record does not show what was in the copy that was sent? A. No.

Re-x Q. 212. After sending this copy, did you send any additional warning notice or instructions to the Aurora Daily Beacon News in respect to their use of such copy? A. I don't know of it.

4744 Re-x Q. 213. Are there any other instances of advertisements published after the preliminary injunction from copies sent out before that date? A. I have not looked up any.

Re-x Q. 214. What is your best information and belief on that subject? A. Unquestionably there are ads of that nature that are published now when copies were sent several months ago.

Re-x Q. 215. You spoke of certain dictionaries being returned by newspapers and then having

(*Albert L. Swift—Re-Cross.*)

4745

certain corrected or reformed title pages placed in them. Under what circumstances were such dictionaries returned? A. The goods were sold to the papers on consignment with the agreement on our part to take back any unsold copies.

Re-x Q. 216. At the end of the campaign? A. At the end of the circulation campaign.

Re-x Q. 217. You have referred on your re-direct examination to certain newspaper advertisements which you stated were re-printings of earlier advertisements. What particular newspapers, and the issue of what date do you refer to in your answer to that question? A. I mentioned one that I had directly in mind, the Mobile Item. 4746

Re-x Q. 218. Did you discuss any other instances? A. There are other instances that I have looked up that have been called to my attention, but I don't recall the names of the papers.

Re-x Q. 219. When did you look them up? A. At whatever time they had been called to my attention. 4747

Re-x Q. 220. Did you make this investigation since you were last on the stand testifying? A. As to the Aurora Beacon, I did only; that is the first time it was called to my attention.

Re-x Q. 221. Do you know of any such instances occurring in the New York American? A. I don't recall having looked up any.

Re-x Q. 222. Then you don't recall any such instances? A. I don't recall having looked up any at all. 4748

Re-x Q. 223. Do you recall anything in that regard as to the Buffalo News or in fact any other paper? A. Not by name of the paper.

Re-x Q. 224. You have offered in evidence the language of what has been termed a sticker which

(*Albert L. Swift—Re-Cross.*)

4749

you say was sent to the newspapers, with which you were operating, on October 9th, 1911. Who supplied the language of that sticker? A. I don't recall just who wrote that out.

Re-x Q. 225. Did you have anything whatever to do with it? A. I think I did.

Re-x Q. 226. Is it not in fact your own language or your composition? A. I could not say as to that.

4750

Re-x Q. 227. I show you a letter dated October 9th, 1911, addressed to your advertising manager, Mr. Johnson, and signed by your president, Mr. Wright, which you have produced here which contains the following language:

"You will at once place in every announcement or advertisement a prominent statement to the effect that our dictionary is not published by the original publishers of Webster's dictionary or by their successors."

4751

The sticker contains that language as part of a sentence, but with a prefix and a suffix. Who is responsible for the language of the prefix and the suffix?

MR. CARROLL: Objection is made to the form of this question unless in place of the stars is put the following language:

"Used by each and everyone of the papers handling our dictionary."

4752

A. In my previous answer I covered that, I don't recall who actually did the writing of that.

Re-x Q. 228. You saw it, though, before it was issued and approved of it? A. Oh, yes, the stickers were printed before the letter was written. The letter reached Mr. Johnson with the sticker on it.

(*Albert L. Swift—Re-Cross.*)

4753

Re-x Q. 229. The letter was therefore substantially a direction to use a statement in the form of the sticker? A. Yes, sir.

Re-x Q. 230. This sticker was first issued, and its language first used not earlier than October 9th, 1911; is that correct? A. My recollection of the origin of the copy of the sticker is that it was copied from the corrected title page.

Re-x Q. 231. And the date of that first use of this language, either in advertisements or on the title page of your books, was October 9th, 1911? A. Previous to that. 4754

Re-x Q. 232. How much previous? A. Oh, just a very few days.

Re-x Q. 233. The words in that sticker, "Present Date," therefore refers to a date on or about October 9th, 1911? A. I would not so construe it.

Re-x Q. 234. How do you construe it?

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial. 4755

A. My construction of it is that it meant that it had been brought up to the present time, in general.

Re-x Q. 235. Brought up by whom? A. By the parties that Mr. Wright had working on the dictionary.

Re-x Q. 236. You mean by the Syndicate Publishing Company through its agents or employees? A. Through whomever it hired to do that. 4756

Re-x Q. 237. The book was acquired by the defendant in 1908. The revision referred to in the language of this sticker therefore means revision by the Syndicate Publishing Company in or subsequent to the year 1908? A. I would think it

(*Albert L. Swift—Re-re-Direct.*)

4757

would take in also previous revisions that had been made on the books before the purchase of the plates.

Re-x Q. 238. Made by whom? A. Well, I cannot testify as to that.

Re-x Q. 239. You mean you don't know? A. I have no knowledge of who was hired except as it states on the title page, previous to the time the

4758

Syndicate bought it.

Re-x Q. 240. This letter to your Mr. Johnson is written upon a regular letterhead of the Syndicate Publishing Company? A. Yes, sir.

MR. HALE: I offer in evidence the following language from the letterhead produced as descriptive of the business of the Syndicate Publishing Company:

"Makers and promoters of premium specialties."

4759

RE-RE-DIRECT EXAMINATION by Mr. Carroll:

Re-Re-D. Q. 241. Was any notice sent to the newspapers which were running this advertising after the preliminary injunction?

MR. HALE: Objected to as immaterial.

A. I cannot answer that as to my own actual knowledge.

4760

Re-Re-D. Q. 242. Will you find out? A. Yes, I can find out.

Re-Re-D. Q. 243. Do now. Have you refreshed your recollection on this point? A. I already knew that an order had been issued to do it, but I have ascertained that the order was carried out.

Re-Re-D. Q. 244. What was that order? A. The order was a revision of the wording of the caution-

(*Albert L. Swift—Re-re-Direct.*)

4761

ary notice setting forth the fact that the wording of the cautionary notice as ordered by the Court must be in a separate line or paragraph and in the exact wording of the court.

Re-Re-D. Q. 245. Have you a copy of that letter?

A. I think it can be produced, I have not a copy of it.

Re-Re-D. Q. 246. Will you see if you can get it?

A. (Witness produces letter.)

Re-Re-D. Q. 247. Please read it into the record?

4762

A. The letter is as follows:

"April 11th, 1912.

THE POST INTELLIGENCER,
Seattle, Wash.

GENTLEMEN:

We are pleased to advise you that the United States District Court has recently confirmed our opinion as to the advisability of clearly marking the difference between our modern up-to-date dictionaries and the antiquated and often absolute editions offered to the public by other publishers. It is therefore necessary that in all our display advertisements, reading notices, coupons or other announcements in your paper, the following cautionary notice be inserted:

4763

"This dictionary is *not* published by the original publishers of Webster's dictionary or by their successors.

4764

"It has been revised and brought up to the *present date* in accordance with the best authorities and is published by the well known Syndicate Publishing Company of New York."

Please note also particularly that the first portion of this notice must be printed in a separate line or paragraph from any other matter.

On all the copy for display advertising and

(*Albert L. Swift—Re-re-Cross.*)

4765

reading notices which has been furnished you for some little time, this cautionary notice has been included, but as it is possible that you may run advertising for which copy was furnished you before this cautionary notice was inserted by us, we will ask you to make certain that it appears in each and every announcement published in your paper from now on.

4766

Under separate cover we are forwarding to you a new electro of the dictionary coupon which includes the cautionary notice, to be substituted for the one now in use. To prevent possible error, we suggest that you deface or destroy the coupon electro previously furnished you which does not include this notice.

Thanking you in advance for giving this matter your very careful attention, and with best wishes, we are,

4767

Yours very truly,

SYNDICATE PUBLISHING COMPANY.
Advertising Dept.

JFJ. RC."

RE-RE-CROSS EXAMINATION by Mr. Hale:

4768

Re-Re-x Q. 248. Was that letter sent to the Post Intelligencer of Seattle on or about the day of its date, April 11th, 1912? A. This is a copy from our files. I have no personal knowledge of the matter.

Re-Re-x Q. 249. Were similar letters sent to other newspapers at or about the same time? A. I have so been informed, but I have not looked up as to dates.

MR. HALE: That is all.

DEPOSITION CLOSED.

(George Henry Doran—Direct.)

4769

Further hearing adjourned to Friday, May 24th, 1912, at 1 o'clock p. m.

NEW YORK, Wednesday, May 29th, 1912.

2 o'clock P. M.

Met pursuant to adjournment noted on page 1139 of this record.

4770

Present—Counsel as before.

GEORGE HENRY DORAN, a witness called by and on behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. Carroll:

Q. 1. Give your full name, age, residence and occupation. A. George Henry Doran; age, 42; my present residence is the Aberdeen Hotel; I am a publisher.

4771

Q. 2. What is your experience in the book trade, length of time and character of experience? A. Twenty-eight years, and general experience in retail, wholesale, publisher.

Q. 3. Have you had any particular experience in the sale of dictionaries? A. Yes.

Q. 4. Will you specify more particularly what that experience has been? A. In the retailing and wholesaling of various kinds of dictionaries.

Q. 5. What is your present business connection? A. President of George H. Doran Company, 38 West 32nd Street.

4772

Q. 6. Have you from time to time handled Webster's dictionaries? A. Yes.

Q. 7. What was the first Webster dictionary that you remember handling? A. The small edi-

4773

(George Henry Doran—Direct.)

tions of Ward, Lock & Company of London.

Q. 8. At about what date were you handling these dictionaries? A. From 1885 to 1890.

Q. 9. Did you sell them in large quantities? A. Yes, very considerable quantities.

Q. 10. Could you give any approximate estimate as to the amount? A. I don't think I could, but certainly hundreds.

4774

Q. 11. Did you then handle any other Webster's dictionaries after that? A. Yes, handled various editions of Webster. I know there was one in particular we handled from Brock & Rankin, Chicago. We did a great deal of business together.

4775

MR. HALE: I object to the statement that the witness has handled books, unless the names of the books referred to by the witness are specifically given; otherwise the testimony is too general to be of value or even to be tested by cross examination.

Q. 12. At about what date did you have your largest dealings in the Brock & Rankin books?

MR. HALE: Objected to, unless the book referred to as Brock & Rankin book is specified by name; otherwise it is apparently irrelevant and immaterial.

4776

A. I should say in the neighborhood of nineteen hundred.

Q. 13. Can you remember any more particularly the title of that Webster's dictionary? A. My recollection of it is that it just had the words "Webster's dictionary" across the front and on the back bone.

Q. 14. If some one came in to you and asked for

(George Henry Doran—Direct.)

4777

a Webster's dictionary, would you know what book they meant?

MR. HALE: Objected to as irrelevant and immaterial, and because no foundation has been laid, and the witness has not yet been qualified as an expert on that subject.

A. They would mean any dictionary bearing the name "Webster's."

4778

Q. 15. What would you do under the circumstances? A. I would offer them the book in which I was most interested at their price.

Q. 16. Would you ask them anything? A. No, other than as to their price limit.

Q. 17. From your experience in the book trade, are you able to state whether or not the general public ever thinks of the publisher of a dictionary which they are about to purchase?

MR. HALE: Objected to unless the witness' qualifying experience is also called for and stated. 4779

A. I would say not.

Q. 18. From your experience in handling Webster's dictionaries, are you able to state whether or not the general public understands by the name "Webster" on a dictionary a dictionary gotten out by any particular publisher?

MR. HALE: Same objection. 4780

A. I would say not.

Q. 19. From your experience in the book trade are you able to state, and if so, will you state, whether the general public know of any so-called series of revised editions of Webster's dictionaries gotten out by any one publisher? A. I don't

4781

(George Henry Doran—Direct.)

think the general public would have any such knowledge.

Q. 20. From your experience in the book trade, will you state on whose work the general public consider that the value and authority if any which is connected with Webster's dictionaries to-day depends?

4782

MR. HALE: Objected to as calling for a conclusion of the witness without laying any foundation therefor.

A. I should think that they depend upon the original author of that, the same as they would on text books of anatomy which carry the original author's name.

4783

Q. 21. From your experience in the book trade, will you state what the name "Webster" means to the general public? A. I would say they use it interchangeably for and synonymous with a dictionary.

Q. 22. Will you name any publishers of Webster's dictionaries with which you happen to be acquainted in addition to those you have testified you have dealt in?

4784

MR. HALE: Objected to unless the witness will include the names of the dictionaries published by these publishers respectively.

A. There was the dictionary published by Ogilvie and later by Saalfield Publishing Company, G. & C. Merriam Company, Cupples & Leon, and George M. Hill Company. That is as far as my recollection serves me.

MR. CARROLL: That is all, Mr. Doran.

(George Henry Doran—Cross.)

4785

CROSS EXAMINATION by Mr. Hale:

x Q. 23. Mr. Doran, how long has the firm of George H. Doran Company been in business? A. George H. Doran Company, four years.

x Q. 24. And during that period, what has been their business? A. General publishing.

x Q. 25. Has that concern published or sold dictionaries? A. No.

x Q. 26. And you have not published or sold dictionaries during the period of your connection with that company? A. No. 4786

x Q. 27. During the period of what connection did you sell dictionaries? A. I was connected with Fleming H. Revell Company at Chicago.

x Q. 28. What was the business of that concern? A. Publishers and general retailers and jobbers of some lines.

x Q. 29. The fifteen years which you spent with that concern were the years immediately preceding the four years which you spent with George H. Doran Company? A. Not immediately, no; two years elapsed. 4787

x Q. 30. Two years between? A. Yes.

x Q. 31. Did Fleming H. Revell Company publish or sell dictionaries? A. They sold dictionaries.

x Q. 32. They did not publish any? A. They did not publish any.

x Q. 33. Did they sell Webster's dictionaries? A. Yes. 4788

x Q. 34. From whom did they obtain their stock of Webster's dictionaries? A. From Brock & Rankin. I think they bought some from George M. Hill Company; then they bought from jobbers or other dealers the Webster's dictionaries published by G. & C. Merriam.

4789

(George Henry Doran—Cross.)

x Q. 35. What was the nature of the dictionaries purchased from George M. Hill Company that you have referred to? A. It was a Webster's dictionary in the usual sheet binding.

x Q. 36. You mean it was a large unabridged dictionary? A. I don't care to use the word "unabridged." It was a large dictionary, a large Webster's dictionary.

4790

x Q. 37. Was it a reprint of any Webster's dictionary upon which the copyright has expired, or did it purport to be so? A. It purported to be a reprint of a dictionary of which the copyright had expired.

x Q. 38. Do you know of any dictionaries published by George M. Hill Company that were not of that character? A. May I add to my others the Laird & Lee Vest Pocket Dictionaries, and I think we bought the George M. Hill's Vest Pocket, but I am not sure.

4791

MR. CARROLL: Witness adds this statement to his answer to previous question regarding Webster's dictionaries which he has known but not dealt in.

THE WITNESS: I overlooked the small Webster's.

x Q. 39. By the small Webster's, do you mean the Vest Pocket Webster's which you have just mentioned? A. Yes.

4792

x Q. 40. What was the name of the book which you have referred to as the Brock & Rankin book? A. Webster's dictionary.

x Q. 41. What was the size and character of that book? A. It was a large quarto bound in imitation sheep.

x Q. 42. Was that one of the so-called un-

(George Henry Doran—Cross.)

4793

abridged dictionaries upon which the copyright had expired? A. I presume it was.

x Q. 43. In what lines of trade was that book distributed or most largely sold? A. The general retail trade.

x Q. 44. Your concern did not sell it to purchasers but to the trade? A. We sold it to the purchasers, to the consumer.

x Q. 45. To the consumer; that is what I mean? A. Regular retail store business.

4794

x Q. 46. You have referred to certain editions of Ward, Lock & Company of England. What is the name of those books? A. Webster's dictionary.

x Q. 47. What was the size and character of them? A. Various editions, from a small pocket edition to what is known in the trade as a Crown Octavo.

x Q. 48. Were these copyrighted books? A. No.

4795

x Q. 49. Were they imported from England? A. Yes.

x Q. 50. By whom? A. I could not say exactly by whom.

x Q. 51. They were all alike without distinction called simply Webster's dictionary? A. As my recollection serves me.

x Q. 52. How long since you have seen a copy of any of them? A. That I could not state, but I know they are still catalogued.

4796

x Q. 53. Catalogued where? A. In the English catalogues.

x Q. 54. How about the American catalogues? A. I don't know.

x Q. 55. What about the publishers' trade list annuals? A. That I don't know.

(George Henry Doran—Cross.)

4797

x Q. 56. How long since you have seen a copy in this country? A. That I don't know.

x Q. 57. Can you and will you produce a copy of those books at this examination? A. No.

x Q. 58. What connection was there between these English books and any book written by Noah Webster or any other Webster's dictionary of which you have ever heard? A. I don't know.

4798

x Q. 59. Do you know whether or not they were English reprints of American Webster dictionaries? A. I never investigated.

x Q. 60. Do you know the date of their publication? A. No.

x Q. 61. How many of such books were sold by your concern to your knowledge? A. I could not say.

x Q. 62. How long were they on sale in your concern to your knowledge? A. That I could not say.

4799

x Q. 63. What was the price at which the Brock & Rankin book was retailed? A. From \$3.00 down.

x Q. 64. What were the prices of the Ward & Lock Company books? A. From twenty-five cents to \$1.25, if my recollection serves me.

x Q. 65. What were the prices of the Laird & Lee books? A. Twenty-five and fifty cents, vest pocket books.

4800

x Q. 66. Do you know whether or not Laird & Lee are involved in litigation with the Merriam Company over the use of their name Webster in connection with their dictionaries? A. I do not.

x Q. 67. Have you ever heard of such litigation? A. No.

x Q. 68. Have you ever personally sold dictionaries at retail to customers? A. Yes.

(George Henry Doran—Cross.)

4801

x Q. 69. Over how long a period? A. Intermittently for ten years.

x Q. 70. And during that period, was that a regular part of your business? A. General supervision of retail stores, yes.

x Q. 71. Yours was a supervisory position though, and the sales were only occasional that were made personally by you? A. They would be occasional.

4802

x Q. 72. Is it within your experience that customers do come into book stores and ask for a large or a small Webster's dictionary? A. Yes.

x Q. 73. And has it sometimes happened, upon such occasions that you had Webster dictionaries of the Merriam Company in stock, and also dictionaries bearing the name "Webster" not published by the Merriam Company? A. Yes.

x Q. 74. How did you handle the situation under those circumstances when a customer inquired for a Webster dictionary? A. The price limit governed very largely.

4803

x Q. 75. Do you mean that you would show and sell the dictionary most nearly approximate in price to the price stated by the customers? A. The procedure would be something like this—

x Q. 76. Please state the procedure? A. A customer would come in and say, "I want a dictionary, a Webster dictionary." "About what price would you like to pay?" And we could come as near furnishing a book of the price as we could.

4804

x Q. 77. And your concern never made any distinction between Webster dictionaries of the Merriam Company and dictionaries published by other publishers under the name of Webster? A. Not to the general casual public buying a dictionary.

4805

(George Henry Doran—Cross.)

x Q. 78. Do you in any other way make any distinction? A. I do not recall any particular distinction.

x Q. 79. You have stated that in your opinion the average customer calling for and purchasing a Webster dictionary does not have in mind the publisher of that dictionary; is that correct? A. Yes.

4806

x Q. 80. Just what do you mean by that answer? A. I will parallel it by a case of a person coming in and saying, "I want a Cruden's Concordance." A Cruden's Concordance can be had in all editions, many editions, and many prices by many publishers. They serve precisely the same purpose, which you know is a word index to the Bible, all based on the work of Alexander Cruden.

4807

x Q. 81. You mean, then, that they have in mind the work and not the name of the person who produced the work; that is, who manufactured it or published it. A. The basic work, yes.

x Q. 82. What do you mean by "basic work"? A. Alexander Cruden produced a concordance, and it was abridged and modified and is still known to the trade as Cruden, known to the consumer as Cruden.

4808

x Q. 83. You have also stated that in your opinion the public do not have in mind any particular publisher in connection with Webster's dictionary. Just what do you mean by that? A. Just what I said.

x Q. 84. Do you mean that they do not know the name of the publisher of Webster's dictionary? A. The general public, I do not think, distinguish between the names of various publishers of Webster's dictionary.

x Q. 85. You mean they do not know the name

(George Henry Doran—Cross.)

4809

of the publishers of any Webster's dictionary?

A. I don't think they do.

x Q. 86. You are speaking, of course, now of the average and general buyer? A. I am speaking now of the casual buyer of the dictionary.

x Q. 87. Upon what do you base that information and belief? A. Experience, not alone with dictionaries, but with other books.

x Q. 88. From that experience, what is the attitude of mind of the ordinary purchaser, not only of dictionaries, but of other books to which you have referred? A. I think indifference, looking for the article to suit their pocketbook.

4810

x Q. 89. You have spoken of a Cupples & Leon dictionary which uses the name "Webster." Have you ever handled that book in the course of trade? A. Only in a few single copy instances.

x Q. 90. Do you know anything about the extent of its circulation and sales? A. One copy for my own daughter and one copy for my own secretary. I know it has had a large sale.

4811

x Q. 91. How do you know that? A. By general trade knowledge.

x Q. 92. When did you buy the two copies referred to? A. About three years ago.

x Q. 93. From whom? A. Cupples & Leon.

x Q. 94. Direct? A. Direct.

x Q. 95. Have you ever been associated in business in any way with Cupples & Leon or any member of that concern? A. Never.

4812

x Q. 96. Do you know what connection there is between the Cupples & Leon Company's book and any other Webster's dictionary? A. No.

x Q. 97. You do not know whether there is any connection at all or not? A. No, I do not.

x Q. 98. Are you acquainted with a man by the

4813

(George Henry Doran—Cross.)

name of Roe who is mentioned on the title page of the Cupples & Leon Company book? A. No.

x Q. 99. You have stated that in your opinion the word "Webster" is synonymous with dictionaries to the average purchaser. What are the specific reasons for that opinion on your part? A. Why, it is almost native.

4814

x Q. 100. I don't quite understand that. Can you be fuller? A. I don't see how I could. I can just give my own attitude toward a dictionary. If anybody would say to me, "Just go and look up Webster," I would go and look up any dictionary that comes to be near by.

x Q. 101. Is that a common phrase, "Go and look up Webster"? A. I don't know.

x Q. 102. Can you make any further or better answer as to the grounds of your belief in that regard? A. No, I don't think I could.

4815

x Q. 103. Have you ever handled any of the dictionaries published by Ogilvie or his successor, Saalfield? A. I would not like to say positively.

x Q. 104. Do you know the names of those dictionaries? A. Not in detail.

x Q. 105. Do you know that some of them are published under several names, the same or substantially the same identical book? A. No.

x Q. 106. You don't know that? A. No.

4816

x Q. 107. Do you know that a number of the dictionaries using the name "Webster" which have been in the market in recent years are the same identical dictionary printed from the same plates or duplicates by different publishers and under different names? A. That might well be.

x Q. 108. You know that is a fact to some extent? A. I would not say it is a fact, no.

x Q. 109. What is your best information and

(George Henry Doran—Cross.)

4817

belief upon that subject? A. I don't think it was ever specifically drawn to my attention, that the same plates were used by more than one publisher.

x Q. 110. Well, how about the same literary matter?

MR. CARROLL: I object to all this line of testimony as improper cross examination, having no relation whatever to the direct examination, and further, as being irrelevant and immaterial.

4818

A. I should say that they are all based on the original work of Noah Webster.

x Q. 111. That is not the present point. The present point is as to whether or not a number of these so-called Webster dictionaries with slightly varying titles and with different publishers' names in their imprints are not the same literary composition?

4819

MR. CARROLL: Same objection.

A. I don't know.

x Q. 112. What is your best information and belief upon that subject? A. I have none.

x Q. 113. Upon what did you base your answer that the conditions suggested might well be? A. On other books of reference.

x Q. 114. You do not know to what extent if at all any of these various dictionaries which you have referred to are identical with any copy of a dictionary written by Noah Webster or published or copyrighted by the Merriam Company at any time?

4820

MR. CARROLL: Same objection.

4821

(George Henry Doran—Cross.)

A. My general answer would be that a Webster's dictionary is a Webster's dictionary, and presumably they are all based on the original work.

x Q. 115. And that is all you know about that?

A. As far as I would say, yes.

x Q. 116. What is the basis for the presumption which you state? A. I think that Cruden's Concordance is the best analogy I can give you about that.

4822

x Q. 117. In other words, because it is a fact in connection with one work with which you are acquainted, you presume it is also the fact with reference to these Webster dictionaries? A. I think it is the fact and practise in connection with many books of reference based on an original work of many years.

4823

x Q. 118. What is the practice to which you refer in your last answer? A. I answered your question before, that presumably they do use the same plates and the same matter worked over in different ways.

x Q. 119. Are you the George H. Doran who made a voluntary affidavit on behalf of the Syndicate Publishing Company in the pending case for use upon the motion for a preliminary injunction?

A. May I look at it? (Witness examines affidavit) Yes.

4824

DEPOSITION CLOSED.

(Oath and SIGNATURE WAIVED by Consent.)

MR. HALE: All of the testimony of this witness as to the use of the name "Webster" upon or in connection with dictionaries not actually produced is objected to as incompetent, irrelevant

(*Robert E. Sherwood—Direct.*)

4825

and immaterial, because secondary, and motion is made to strike it out unless the books referred to are produced before the final hearing herein.

(Further hearing adjourned to Saturday, June 1st, 1912, at 11 A. M.)

NEW YORK, SATURDAY, June 1st, 1912.
11 A. M.

4826

Met pursuant to adjournment.

Present: Counsel as before.

ROBERT E. SHERWOOD, a witness called by and on behalf of the defendants, testified as follows:

DIRECT EXAMINATION by Mr. Carroll:

4827

Q. 1. Give your full name, age, residence and occupation? A. Robert E. Sherwood, age, 48; business address, 144 Fulton Street, New York; residence, 281 Rugby Road, Brooklyn, occupation, a book seller.

Q. 2. How many years have you been engaged in the book business? A. Upwards of twenty years.

Q. 3. What has been your general experience in the book business? A. General lines such as are handled by up-to-date retail stores. 4828

Q. 4. Have you personally sold books over the counter? A. I have acted as salesman in my own place of business for a number of years.

Q. 5. During that experience have you sold dictionaries of various kinds? A. Yes.

Q. 6. Among others, Webster's dictionaries? A. I have.

4829

(Robert E. Sherwood—Direct.)

Q. 7. To what extent have you sold Webster's dictionaries? A. In addition to carrying on a large trade in Webster's dictionaries in a regular retail way, I have also sold, as professional book auctioneer, large quantities of books, belonging to estates, in which dictionaries from time to time occurred.

4830

Q. 8. At present have you your own book store?
A. 144 Fulton Street.

Q. 9. What varieties of Webster's dictionaries have you dealt in? A. Many varieties, comprising possibly fifty different kinds, running in size from the small vest pocket dictionary, containing, possibly, one hundred pages, to the large quarto dictionaries, containing approximately over two thousand pages.

4831

Q. 10. Will you name all the Webster's dictionaries which you have dealt in, or known about, giving as nearly as you can their complete details and their publishers?

MR. HALE: Objected to as incompetent, irrelevant and immaterial, and because calling for secondary evidence of the witness of printed books which are not produced, and which may easily be produced if there are any such.

4832

A. Speaking from memory entirely, not having the books before me, I will endeavor to recall the details as best I can, commencing with the larger ones, and going down to the smaller ones published.

Webster's New Unabridged Dictionary, published formerly by Thompson & Thomas of Chicago, but now published by the Charles C. Thomas Company; the Webster Encyclopedic

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4833

Dictionary, published by the Saalfeld Publishing Company of Akron, Ohio; School and Office Dictionary, published by Charles C. Thomas Company; Webster's Family Dictionary, published by Laird & Lee, of Chicago; the Pocket Dictionary, published by Hurst & Company; the Common Sense Dictionary, published by Miles & Company, Lancaster, Pennsylvania; the Webster Vest Pocket Dictionary, published by Charles C. Thomas & Company of Chicago; Webster's Vest Pocket Dictionary published by David McKay of Philadelphia, and there are approximately, to the best of my knowledge and recollection, twenty-five or thirty other Webster's dictionaries of various titles and sizes, which I now have or sold and on exhibition in my place of business, the exact details of which I cannot now call to mind.

4834

Q. 11. Have you either in your regular business, or in connection with your auction business, sold any copies of Webster's dictionaries, which were published prior to 1850? A. Yes.

4835

Q. 12. Can you remember the titles? A. Yes.

Q. 13. Give us as far as possible the description of those dictionaries? A. Some three or four months ago, while conducting an action sale by catalogue for the George G. Richmond Literature Company of 19 East 45th Street, New York City, I offered for sale, and did sell, a copy of a dictionary, the exact title of which I remember was, "Webster's New Dictionary," the imprint of which on the title page was "London, 1818."

4836

MR. HALE: So much of the answer as tells in part the contents of the book referred to is objected to as secondary.

Q. 14. Have you come in contact with custo-

(Robert E. Sherwood—Direct.)

4837

mers themselves in selling Webster's dictionaries? A. I have.

4838

Q. 15. Will you outline the usual conversation which takes place between a customer and you when the customer comes to buy dictionaries? A. There is no regular prescribed conversation usually occurring, but my experience has been that the customer is generally more interested in acquiring knowledge as to whether or not the dictionary is up to date, than he is in its mechanical construction or its publisher. When a customer applies in our store we have a certain space set apart for exhibition and sale of dictionaries in general, whether they are all of the English language or whether they are of foreign languages. On application of the customer for the purchase of a dictionary, he is generally taken to that portion of the store, and a preliminary conversation engaged in to bring out the kind of a dictionary he wants to buy, as to size, binding and the price that he would like to pay, and the usual conversation engaged in as generally occurs between a salesman and customer, and the general questions asked by the customer are to the effect, "Is the book up-to-date?" and sometimes, "How many words are defined in the copy which you show me?"

4839

4840

Q. 16. What have you understood the customers to mean by the requirement that the book should be up-to-date? A. That the plates should be so revised that all the words that have been coined in recent years shall be incorporated into the book, and the definition given.

Q. 17. As far as you can recall, did any customer ever bring back a Webster's dictionary, complaining it was not published by any particular publisher?

(Robert E. Sherwood—Direct.)

4841

MR. HALE: I object to that as irrelevant and immaterial.

A. Not to my knowledge.

Q. 18. As far as you can remember, did any customer ever ask for a particular imprint of any publisher? A. I never knew of a customer to ask for a Webster's dictionary by the imprint; they generally ask for it by the title, if they ask for it in any specific way at all.

4842

Q. 19. Has it been your experience that the ordinary buyer of Webster's dictionaries thinks about the publisher at all?

MR. HALE: Objected to as calling for what the public thinks, instead of what they say.

A. Well, as a matter of fact,—the question—

Q. 20. (Question repeated by the stenographer.) Has it been your experience that the ordinary buyer of Webster's dictionaries thinks about the publisher at all? A. He generally inquires as to the mechanism of the book, and the number of words defined, and, as I have said before, whether or not it is up to date.

4843

Q. 21. Would you regard a large unabridged Webster's dictionary as in competition with a small dictionary like the New Illustrated? A. No, I would not, excepting in so far as the elementary words are concerned, both having elementary words in, but dictionaries, if I may be allowed to elaborate, are bought according to the demands made upon them by the customer. If a man is a professional man, lawyer, public speaker, he will of necessity require a dictionary which is fully complete in every particular; if, on the other

4844

4845

(Robert E. Sherwood—Direct.)

hand, the dictionary is to be used for elementary school work, the dictionary not so elaborate will suffice, so I should say it depends altogether on the use to which the respective customers expect to put it.

4846

Q. 22. Are there any particular marks, as to binding and so on, by which it would be possible to distinguish dictionaries published by different publishers?

MR. HALE: Objected to unless the witness will include in his answer the reasons and grounds of his opinion.

4847

A. There are certain ways. Many of the publishers have an outside stamp, consisting of a die, on which is stamped their name, and sometimes their business address, on the outside cover; nearly all of the larger dictionaries are so stamped; the smaller dictionaries, I don't recall there being any specific stamp.

Q. 23. Aside from such markings as you have just indicated, is there any method of distinguishing from the outside, dictionaries published by different publishers? A. Excepting where the title differs, as many dictionaries published have a qualifying adjective in the title which sometimes specifies or indicates the dictionaries being sold.

4848

Q. 24. As to the general style and binding of dictionaries, can it be said that they are uniform in general, no matter by whom published? A. Well, binding as an art must of necessity be somewhat similar, in all cases where leather was used, and in all cases where colors are used the only difference being the cloth bindings, where the coloring of the cloth is different. If I may go further, I may say sheepskin is generally of the

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4849

same color, Russians are of the same color in the leathers, but the colors and styles are generally diversified in the cloth colors, because the dies give the binder a chance to make the colors widely diversified.

Q. 25. Would it be possible that any purchaser could in any way be deceived as to the origin of the book or publisher by the general binding or make-up of a dictionary? A. The general appearance is not identified with any particular publisher; the only way to arrive, outside of the die stamp which I have already testified to, would be to open the book to the title page, and find the imprint.

4850

Q. 26. From your experience in the book trade, will you state whether or not the name "Webster's" as applied to dictionaries, indicates to the public generally anything about the source of publication?

4851

MR. HALE: I object to this as calling for a conclusion of the witness and too broad.

A. It does not.

Q. 27. From your experience in the book trade, will you state whether or not the general public know the name of the publisher or publishers of any Webster's dictionaries. A. I cannot say as to what their knowledge may be unexpressed, but I have never had them express such a knowledge to me.

4852

Q. 28. Have you ever, in your experience in the book trade, had a customer indicate in any way a conception of Webster's dictionaries as a series gotten out by any one publisher?

MR. HALE: Objected to.

(Robert E. Sherwood—Direct.)

4853

A. I have not.

Q. 29. Have you during your business experience had occasion to follow the general course of advertising by various publishers in connection with Webster's dictionaries? A. In a general way, particularly where it affected the local conditions and the demands.

4854

Q. 30. Has your observation been complete enough for you to state approximately the proportion of the advertising which has been in the name of the G. & C. Merriam Company, to that in the name of other publishers of Webster's dictionaries?

MR. HALE: Objected to as calling for a mere guess and surmise of the witness, and without laying any foundation in the knowledge of the witness of definite facts sufficient to make an estimate of any reliability.

4855

A. As a matter of fact, the G. & C. Merriam Company publish but one or two varieties of dictionaries, while the balance of the publishers co-jointly publish hundreds of various Webster's dictionaries, all of which they advertise in a great many directions. I should say that a conservative estimate of the ratio would place it at about five to one in favor of the numerous publishers, possibly greater than that.

4856

MR. HALE: The answer is objected to as being frankly a mere guess, and motion is made to strike it out.

Q. 31. Do you mean to say then that during your experience in the book business, during which you have stated that you have observed the various advertising of Webster's dictionaries,

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4857

other publishers than the G. & C. Merriam Company have devoted at least five times as much to the name "Webster's" as the G. & C. Merriam themselves have done? A. I place it that way.

MR. HALE: Same objection to the question and answer.

Q. 32. I show you Defendant's Exhibit 1, being a Webster's unabridged dictionary published for the trade, with the G. & C. Merriam Company's trademark, consisting of the monogram "N. W.," the wreath and the circle appearing on the outside of the cover; have you ever dealt in dictionaries of that kind (showing book to witness)? A. I have. 4858

Q. 33. Have you ever had any conversation with a representative of the G. & C. Merriam Company in connection with one of such dictionaries? A. I have.

Q. 34. What was the occasion of that conversation? A. About seven years ago, possibly longer, in my place of business at 144 Fulton Street, I was approached by a salesman for the G. & C. Merriam Company, whose name I do not now recollect, and don't really believe I knew at the time, but did have knowledge that he was the authorized salesman for the concern, to buy a quantity from him of the exhibit referred to in question. I said to him— 4859

Q. 35. What was said by you and what was said by him on that occasion? 4860

MR. HALE: Objected to as irrelevant, incompetent and immaterial to any issue in this case.

A. I said to him, "Why should I pay you a

4861

(Robert E. Sherwood—Direct.)

4862

greater figure for that book when I can buy one just as good mechanically and from a literary standpoint as the one which you now show me," and I said, "They are all of them more or less built on the edition of 1847," and he said, "Yes, but this book has many more additions made with the 1847 plate, or new words, than the other books which you mentioned contain," and in a joking way I said to him, "Do you mean to tell me that every one of the plates in the book you now show me and exhibit for sale are new plates?" "Oh," he said, "there may be occasions where the same plate in this book is the same as in the 1847 plate, if there are no words coming into usage since the 1847 edition was printed, which would of course of necessity be the plate remaining the same." Our negotiations were closed without any sale being effected.

4863

4864

MR. HALE: Complainant's counsel inquires if the purpose of this line of examination is to establish the alleged fact that the exhibit shown the witness is printed in whole or in part from any plates of the 1847 edition of Webster's dictionary, or duplicates thereof. If so, complainant's counsel objects to this question and this answer and this line of examination, upon the ground that the testimony is incompetent, being merely a hearsay declaration of an unknown person, not shown to be authorized to speak for the complainant, and is not the best evidence, because the books themselves are the best evidence, and a comparison of them will show the real fact without any guess or doubt about it.

(Robert E. Sherwood—Direct.)

4865

Q. 36. What reason had you to believe that the man with whom you held the conversation you have just outlined was the duly authorized representative of the G. & C. Merriam Company?

A. By presentation of a card bearing the firm name, but down in the left hand corner, "Represented" by the gentleman whose name I cannot now recollect. It has been many years ago, I cannot recall it to memory now.

Q. 37. Had you ever seen him before? A. Yes, a number of times; would know him again if I saw him.

4866

Q. 38. And each time he came with the G. & C. Merriam Company's card? A. No, I cannot testify to that, but on this specific occasion, he presented a card; he is a gentleman with whom I had business dealings before in connection with the same firm, and I took it that he was still connected with them.

Q. 39. Did you ever buy any books from the G. & C. Merriam Company through that man? A. Not direct through him. I have bought several dictionaries by mail, but I don't recall that I ever gave their commercial representative an order. I may have, but if I have, it does not occur to me now.

4867

Q. 40. Did you ever sell books like this exhibit? A. Many thousands of them.

Q. 41. From whom did you obtain those books? A. H. B. Claffin & Company, whom, I understand, obtained them from Reilly & Britton Company of Chicago.

4868

Q. 41. By whom were those books printed? A. The only evidence I have by whom they were printed, from which one might suppose to be the truth, was the copyrighted imprint of the G. & C.

869

(Robert E. Sherwood—Direct.)

Merriam Company on the inside of the second page. The actual imprint in the plate generally reserved by publishers for putting their name and address, these words appeared: "Printed for the trade."

Q. 42. "Published for the trade"? A. I am not sure. (Consulting book) "Published for the trade."

4870

Q. 43. At what price did these dictionaries sell? A. We paid one dollar and sixty-five for them f. o. b. our store.

Q. 44. What did you sell them for? A. We used to make a leader of them sometimes at one dollar and ninety-eight, but the usual retail price was two dollars and twenty-five cents.

4871

Q. 45. During your professional career as an auctioneer, you have stated that you sold many varieties of Webster's dictionaries; have you in each instance prepared a catalogue accurately describing those dictionaries for the sale? A. In a great many sales I have, but the custom was not rigidly adhered to. In cases of estates where the estates were offered in liquidation, a catalogue was always published as a matter of law, but in cases where general auction sales were had, comprising duplicate volumes, a catalogue was rarely used.

4872

Q. 46. In those catalogues the Webster's dictionaries disposed of were fully described? A. In the disposition of the estates they were usually in catalogues, and goods offered, including Webster's dictionaries were fully described, their binding, their size, their contents and in general a reproduction of the title page, including the publisher's name and address.

Q. 47. Has it been your experience that Web-

(Robert E. Sherwood—Direct.)

4873

ster's dictionaries published by one publisher or by another, have brought better prices at the auction block? A. I have never known any instance where a Webster's dictionary brought a greater or less price on account of its publishers's imprint. The condition which brings out the price is generally affected as to the mechanical construction and the date of the book, the publisher, one or another, not affecting its retail price.

4874

Q. 48. Given two books then of the same mechanical construction, and bearing approximately the same dates, can you state from your experience whether or not those two books have brought approximately the same price, irrespective of the publisher? A. All other conditions being equal, excepting those you have stated, I would say they would bring about the same price.

CROSS EXAMINATION by Mr. Hale:

4875

x Q. 49. In these catalogues, of the description of books to which you have referred, just above, did you include also the date of edition of the various books? A. Yes, where a date was mentioned in the book the date was always given, but when no date was given in the book, the words "N. D." appear, which means no date.

x Q. 50. Has it ever occurred in your experience that intending purchasers have come to your store and asked for a Webster's dictionary? A. Yes.

4876

x Q. 51. Please describe the ordinary course of procedure after the customer has made such an inquiry? A. I think I have pretty generally described it in the previous answer, but, as I said, our custom is to have all dictionaries classified and put into one portion of the store, and when

4877

(Robert E. Sherwood—Cross.)

4878

the customer approaches and makes known his desire to purchase a Webster's dictionary, for the sake of convenience, so we may be able to show him all the different kinds we have in stock, he is taken to this certain portion of the store set apart for that purpose, and, as I have said before, the conversation that generally ensues tends to bring out the kind and style and size and price he desires to pay, this being arrived at by elimination that generally effects the sale in proportion to the customer's desire.

x Q. 52. Have you always carried in your dictionary stock Webster's dictionaries published by the Merriam Company, as well as dictionaries published by other publishers to which you have testified? A. I could not testify as to whether we have had them all the time, but about as long as this.

4879

x Q. 53. That would cover the last twenty years? A. Yes.

x Q. 54. Do you always explain to such customers, the difference between Webster's dictionaries published by the G. & C. Merriam Company and dictionaries published by other publishers upon such inquiry? A. I have never regarded them different in regard to their contents.

4880

x Q. 55. As a general rule, you do not make any such explanation? A. No, they do not ask for elucidation on that point.

x Q. 56. You show him your entire stock and practically allow him to select for himself the book that in get-up and price seems to most nearly approximate the idea had in mind? A. That is my general rule, unless I know beforehand from the purchaser that he desires to purchase a book of a certain size, in which case the general line

(*Robert E. Sherwood—Cross.*)

4881

is not shown, merely the books of that size which he indicates he desires to purchase.

x Q. 57. Have you ever explained to such customers that the G. & C. Merriam Company is the original or long established publisher of Webster's dictionaries? A. Not unless requested to by the purchaser.

x Q. 58. You know, do you not, that the literary contents of the most recent and copyrighted Webster's dictionaries of the G. & C. Merriam Company are largely different from the literary contents of all so-called Webster's dictionaries by other publishers, do you not? A. I do not, where they are the same size, I think there is very little,—speaking from experience and examination—between the two. As a matter of fact, my experience has taught me that no one publication of Webster's dictionaries, or otherwise, has every word in use in the English language today; some are lacking on one point, while others supply it, and vice versa.

4882

4883

x Q. 59. You have spoken of a conversation with an unnamed person whom you have described as an agent of the Merriam Company, in regard to the book, a copy of which is in evidence in this case, marked Defendant's Exhibit 1; what else did that agent say to you along the same line; A. My recollection is that I did not describe him as an agent, but as a representative. The evidence which I have given in relation to the gentleman referred to was in substance about all that occurred between us at that time.

4884

x Q. 60. Do you mean to say this agent did not call your attention to the fact that the main vocabulary of this dictionary was the unabridged edition of 1864, prepared by Noah Porter, and not a reprint in whole or in part of the 1847 edition?

4885

(Robert E. Sherwood—Cross.)

A. Not to my recollection, in fact in a joking way between us, quite the reverse was the gist of the conversation.

x Q. 61. Did you at that time know the main vocabulary was in fact a reprint of the 1864 edition of Noah Porter, as added to in the subsequent editions? A. I had no knowledge of the fact.

4886

x Q. 62. Did you have any information or belief on that fact at that time? A. No, I cannot say that I did, and to be truthful about it, I inferred knowledge, but nothing was ever stated to me specifically.

x Q. 63. What was your inferred knowledge at that time? A. I cannot say specifically I had any knowledge at my command which I could testify truthfully as to what edition it was.

4887

x Q. 64. Had you any knowledge, information or belief in regard to this book before this alleged conversation with the agent? A. I had seen it and handled it, but not read it.

x Q. 65. You knew, as a matter of fact, did you not, that this agent was trying to sell you a stock of the 1864 edition, as revised and amended, and not trying to sell you a reprint of the 1847 edition? A. I have no knowledge that would lead me to testify on that as being a fact.

4888

x Q. 66. Did you at that time know of any distinction or difference between the 1847 edition and the 1864 edition? A. It was all our supposition—that the dictionaries which were offered under the title of 'Webster's Unabridged Dictionary' were based on the edition published under the authorship of Noah Webster in 1847, with additions thereto, and corrections, contingent on the new words which have been coined since the original edition was published in 1847.

(Robert E. Sherwood—Cross.)

4889

x Q. 67. As a book man, you knew, did you not, of the 1864 edition prepared by Dr. Noah Porter? A. I did.

x Q. 68. You also knew, did you not, that this book was the book which figured in the controversy with Worcester's dictionary some forty or fifty years ago; I mean a controversy in the public press and other pamphlets, etc.? A. The pamphlets and the controversy never came under my notice, neither by hearsay nor otherwise, and as before my birth, I cannot testify on that point.

4890

x Q. 69. Was a copy of this book present at that interview with this representative? A. It was not.

x Q. 70. Had you at that time seen a copy of it? A. I had.

x Q. 71. Did you notice the several copyright notices upon the back of the title page, dated respectively 1864, 1879, 1892 and 1903? A. I had knowledge that such dates as specified were imprinted thereon, but did not see them at the time, and what time I did, I cannot now testify.

4891

x Q. 72. Did this agent call your attention to this copyright notice and the change *prima facie* indicated thereby? A. He did not, because there was no exhibit of the book made.

x Q. 73. Did this agent refer to the fact that this book, Defendant's Exhibit 1, has a supplement of more than five thousand words and phrases added to the printed edition of Webster's Unabridged Dictionary? A. He did, and it was for that reason I asked him specifically in addition to those five thousand words if some of the same plates were not in the book of which we were talking, which were in the 1847 plate, and he said, as I have testified before, where there

4892

4893

(Robert E. Sherwood—Cross.)

were no words to be added to that one plate, probably it remained as it was in 1847.

x Q. 74. Can you specify a single page in that volume before you which is printed from the same plates as the 1847 edition, or the literary contents which are identical with the 1847 plates?

4894

A. I have no evidence at my command which would enable me to do that, and the only evidence I base my answer on is the representation of the agent himself.

x Q. 75. You don't mean to testify then that there is a single page of this edition of the book which contains the same literary matter contained on any page of the 1847 edition? A. Excepting the suppositions or declarations of the representative.

4895

x Q. 76. You don't yourself offer any testimony of that fact? A. I have no knowledge of it being the fact, excepting the declaration of the representative himself.

x Q. 77. You have referred to a book entitled "Webster's New Unabridged Dictionary" published at one time by Thompson and Thomas. Was that book a reprint of the edition of 1847? A. No.

4896

x Q. 78. What was it? A. The book is really under a different title, printed from the same plates as the one published by the Saalfeld Publishing Company, under the title "Webster's Encyclopedic Dictionary," and is made into two parts under one binding, practically two volumes in one, the first being 1847 plate, the second volume being a supplementary book containing fifty thousand words; there is a definition in archaeology, anatomy, zoology, chemistry, mineralogy and other arts and sciences by the Right Reverend Bishop Fallows of Chicago.

(Robert E. Sherwood—Cross.)

4897

x Q. 79. That supplement to which you have referred by Bishop Fallows was printed under two alphabets? A. The supplement by Bishop Fallows was under an alphabet of its own, and the old edition also under an alphabet of its own, both alphabets being bound in the same book.

x Q. 80. And this list of dictionaries which you have given which used the name "Webster" and which was not published by the Merriams, you have referred to two which are substantially the same book of different publishers and different titles—are there any other instances in that list of the same sort? A. I think practically all the Webster pocket dictionaries of about one hundred pages each, whether they are called by one title or another, are practically printed from the same plates. 4898

x Q. 81. Is not that also true as to two books you have designated as "Webster's School and Office Dictionary," published by Thomas & Company, and "Webster's Common Sense Dictionary," which you have said was published by Miles & Company? A. No, the Miles book is a very small book in comparison to the "School and Office Dictionary." 4899

x Q. 82. Do you know of any other name or publisher under which or by whom the book called "Webster's School and Office Dictionary" has been published? A. I do not. I know there has been some. 4900

x Q. 83. You cannot recall the specific titles? A. No.

x Q. 84. You know it has been published by several publishers under several titles? A. No, it has not; it has never been published by any concern except Thompson & Thomas, but there

4901

(Robert E. Sherwood—Cross.)

had been several different imprints placed in the book called "School and Office Dictionary" purporting to be published by other publishers in precisely the same manner as the imprint published for the trade, as appears in the book marked "Exhibit 1."

4902

x Q. 85. With this change of imprint was there also a change of title upon the outside cover and title page? A. My recollection is there was.

x Q. 86. Do you not also know that this same book was originally published without the name "Webster" under the title of "Baleh Compendium?" A. I have no knowledge as to that.

x Q. 87. Have you any knowledge or belief on that subject? A. No.

4903

x Q. 88. Can you state the full contents of the title page and color and inscription of each and all the dictionaries you have named, or any more fully than you have already done so? A. No, I cannot.

4904

x Q. 89. From your experience, can you say whether or not the ordinary member of the public and the purchaser of dictionaries knows the names of the publishers of the various editions? A. I don't think they do, in my experience, or if they do know, they never evidenced such knowledge in the purchase of them. As I say, the specific point on which they want to be informed is whether or not the book is up to date, but sometimes, although not in all cases, they inquire how many words, definitions and phrases the book contains. That is really the bulk of the conversation between purchaser and salesman.

x Q. 90. And is this what you mean when you testify that the general public, or the average purchaser, does not think about the publisher at all in making his purchase? A. It is, and I think I have already testified to that before.

(*Robert E. Sherwood—Re-Direct.*)

4905

x Q. 91. Do you know of your own knowledge, what, if any relations any of the so-called Webster's dictionaries not published by the Merriam Company bear in literary contents to any dictionary with which Noah Webster had anything to do? A. Generally speaking, their contents are very similar, for the reason the first elementary dictionary that I had any knowledge of was published under the authorship of Noah Webster, and of necessity they would have to be similar, because they are supposed to embrace the definitions of the English words generally. 4906

x Q. 92. Do you know this of your own knowledge and from a comparison of the books themselves? A. I do.

x Q. 93. You have referred to a dictionary entitled "Webster's New Dictionary," of the imprint "London, 1818;" have you a copy of that book in your possession, or can it be obtained for introduction in evidence? A. It was sold in an auction sale of an estate, at which I officiated as the auctioneer. By diligent search of the records of the sale I can no doubt learn the name and address of the person who purchased it, but whether or not it still remains in his possession would be a matter of conjecture. If the original purchaser still has it, I imagine it could be obtained. 4907

MR. HALE: That is all.

4908

RE-DIRECT EXAMINATION by Mr. Carroll:

Re-D. Q. 94. What do you understand the customers to mean by the requirements that the book should be up-to-date? A. That they should contain all the new words brought into usage since the original dictionary was printed.

4909

(Robert E. Sherwood—Re-Cross.)

Re-D. Q. 95. Did they expect to embody any changes of the words which were in the original dictionary? A. When the usage has made this change necessary.

Re-D. Q. 96. It would be the fact, would it not, that a great majority of the words in any dictionary would remain unchanged from the original book? A. If they were root words, yes.

4910

Re-D. Q. 97. Fundamentally, then, any most up-to-date Webster's dictionary would be very similar to the original Webster's dictionary?

MR. HALE: Objected to as leading and argumentative, and as calling for a conclusion.

4911

A. Of necessity it would, for the reason in all probability the English language has not increased in new words, more than five or ten thousand, since the original dictionary was printed.

RE-CROSS EXAMINATION by Mr. Hale:

Re-x Q. 98. Answering upon the same information, does not the average purchaser to-day of a dictionary expect the book bought to be accurate in its contents, and in accordance with the best present day usage in the information afforded? A. Undoubtedly.

4912

DEPOSITION CLOSED.

Oath and signature waived by consent.

Adjourned to Saturday, June 8th, 1912.

(*Thomas I. Skeoch—Direct.*)

4913

NEW YORK, Saturday, June 8th, 1912.

Met pursuant to adjournment.

Present: Counsel as before.

THOMAS I. SKEOCH, a witness called by and on behalf of the defendants, having been first duly cautioned and sworn, testified as follows:

4914

DIRECT EXAMINATION by Mr. Carroll:

Q. 1. Give your full name, age, residence and occupation? A. Thomas I. Skeoch, 1027 East 167th Street, salesman for the Syndicate Publishing Company, New York, 12-14 West 32d Street.

Q. 2. Have you been present during part or whole of some of the distributions of the Syndicate Publishing Company's books by the newspapers? A. Yes.

4915

Q. 3. During those distributions have you from time to time questioned various purchasers of the Webster's dictionaries published by the Syndicate Publishing Company? A. Yes, quite considerably.

Q. 4. In approximately how many towns or cities have you carried on this investigation in the last year? A. You mean the sale of the books or the investigation?

Q. 5. The investigation? A. Well, I have not been engaged to make any investigation. I did that for my own information. I have sold the books from Maine to California. I have visited, I think, at least thirty States in the Union with that proposition.

4916

Q. 6. What was the purpose originally of your questioning the purchasers? A. Well, it was for

4917

(Thomas I. Skeoch—Direct.)

my own information principally, to see if the book was appreciated at the price, and principally for the success of the plan. I wanted to determine myself whether the plan we were putting the books out on was a success, whether it was meeting with the approval of the subscribers, success to the newspapers, for my future connection with the concern.

4918

Q. 7. From your investigation of this kind can you state whether or not the ordinary purchasers of one of these dictionaries knew the name of the publishers of any Webster's dictionary? A. Well, I had no particular reason to question them along that line because I was not directly interested other than that we were publishing the dictionary and it was for that reason that I made the inquiry. I did not ask them specifically at that time. I have done so since, but I did not, say, eight or nine months ago.

4919

Q. 8. What was the line of your investigation eight or nine months ago? A. Why, just to determine if the price, ninety-eight cents, as put out through the newspapers, was a success.

Q. 9. In general, what questions would you ask the customers during that earlier period? A. I asked them if they were satisfied with the book as purchased, and if they had purchased more than one, and the reasons for their purchasing more than one.

4920

Q. 10. In general what did they answer to these questions? A. They replied that they considered the book splendid value for the money, and that they had in a great many instances taken particular pains to speak of it to their friends and relatives, and in some instances they had been commissioned to buy this book for those

(Thomas I. Skeoch—Direct.)

4921

friends, or relatives, such replies being very gratifying to me because I could see that the plan was a success as outlined.

MR. HALE: The answer is objected to as incompetent, irrelevant, immaterial, and motion is made to strike it out.

Q. 11. The instances which you speak of were, many of them, before October, 1911, were they not? A. Yes. 4922

Q. 12. And at that time the Syndicate Publishing Company was distributing Webster's New Illustrated Dictionary? A. To the best of my knowledge, yes.

Q. 13. That was the book which the newspapers were handling on the plan, was it not? A. Prior to that time, yes.

Q. 14. During all of this investigation did you ever encounter any purchaser of Webster's New Standard or Webster's New Illustrated Dictionary who claimed to be dissatisfied? 4923

MR. HALE: Objected to as incompetent, irrelevant and immaterial.

A. No, I never did.

Q. 15. Did many of these customers purchase more than one book? A. Oh, yes, quite a few.

Q. 16. Do you remember any instance where one of the customers said that he had seen one of the books at a friend's house? 4924

MR. HALE: Objected to as calling for hearsay evidence.

A. I cannot recall specifically any particular case, only in a general way I know that they did that.

4925

(Thomas I. Skeoch—Direct.)

Q. 17. Have you in the last ten days made a more particular investigation for the Syndicate Publishing Company? A. I have, yes.

Q. 18. And where did you make that investigation? A. Boston.

Q. 19. What was the method of making it? A. I asked specific questions of quite a number of people, also purchasers of the dictionary.

4926

Q. 20. How did you select the persons from whom you asked these questions? A. At random.

Q. 21. Did you prepare them in any way for the questions which you asked them? A. No more than just ask them if they would answer a certain amount of questions I would ask them; some agreed to it; others did not.

4927

Q. 22. What purpose did you state to them was to be served by the answers to the questions? A. I did not give any explanation at all. I asked them if they would answer the questions. If they said no, that settled it. I read the questions to them. I have them typewritten and I read the questions to them. I told them that I was not in a position to answer any questions.

Q. 23. Where did you see most of these people? A. At the Herald office, or near it, the Boston Herald.

4928

Q. 24. In general, did you ask them the questions before they purchased one of the dictionaries being sold by the Herald? A. In some instances, while waiting, if there happened to be quite a large crowd there, I would ask them the questions previous to their buying the dictionary.

Q. 25. Were any of them deterred from buying the dictionary by your questions?

MR. HALE: Objected to.

(*Thomas I. Skeoch—Direct.*)

4929

A. No, not one.

Q. 26. Have you a list of the questions which you asked these persons? A. Yes.

Q. 27. Will you give that list?

MR. HALE: Objected to as incompetent, irrelevant and immaterial, and this line of examination is also objected to upon the same grounds, because calling for hearsay evidence and relating to transactions after issue joined in this suit. 4930

MR. CARROLL: The purpose of this testimony is to rebut the testimony of various salesmen of the G. & C. Merriam Company who have been called by complainant to testify in this case from their experience as salesmen, and upon which testimony complainant obviously intends to found a claim that there is connected with the name Webster in the title of dictionaries a secondary meaning, namely, published by the G. & C. Merriam Company, of Springfield, Mass. 4931

MR. HALE: Complainant's Counsel does not assent to Defendant's Counsel's statement as to the purpose and effect of Complainant's evidence. Complainant's witnesses testified to happenings in the ordinary and usual course of trade extending over a long period of time. While this witness is purporting to testify to what individuals recently interviewed have said to him, such witnesses should themselves be called and sworn. 4932

A. "Q. 1. Do you know who is the publisher or who are the publishers of Webster's dictionary?"

4933

(Thomas I. Skeoch—Direct.)

Q. 28. From the answers made to question 1, are you able to state whether or not the general public know who is or who are the publishers of Webster's dictionary? A. From my investigation I found that they did not know.

4934

MR. HALE: It is stipulated that the objection last above entered shall apply to this entire line of examination without being specifically repeated.

Q. 29. Will you read question 2? A. "Q. 2. When you hear or see the name Webster on a dictionary, does it indicate to you a dictionary gotten up by any particular publisher or at any particular place?"

4935

Q. 30. From your investigation are you able to state whether or not the name Webster in the title of a dictionary indicates to the general public a dictionary gotten out by any particular publisher or at a particular place? A. Well, the majority of the replies that I received were negatives, No.

Q. 31. Do you remember the proportion of these negative answers? A. Well, I should say they were about ninety-five per cent.

Q. 32. Answered "no?" A. Answered "no."

4936

Q. 33. Will you read the third question? A. "Do you know any city or cities where any Webster's dictionaries are published?"

Q. 34. From your investigation are you able to state whether or not the general public know any city or cities where Webster's dictionaries are published? A. The above answer to question 2 will apply to that also.

Q. 35. That is to say, that about ninety-five per cent did not know any city or cities where

(Thomas I. Skeoch—Direct.)

4937

Webster's dictionaries were published? A. Yes, did not know.

Q. 36. Read question 4? A. "Do you know of any series of succeeding rewritings of Webster's dictionary gotten out by any one publisher?"

Q. 37. From your investigation are you able to state whether or not the general public know of any series of succeeding rewritings of Webster's dictionary gotten out by any one publisher? A. I don't recall at the present time of getting any answer in the affirmative on that score. 4938

Q. 38. Everyone interrogated by you then as far as you can remember answered "no" to that question? A. "No," to that question.

Q. 39. Read question 5? A. "Who do you think wrote the definitions and fixed the spelling of the words to be found in the Webster's dictionaries you have known about?"

Q. 40. From your investigation are you able to state who the general public think wrote the definitions and fixed the spelling in Webster's dictionaries? 4939

MR. HALE: Objected to upon the further ground, not waiving previous objection, as calling for conclusion of the witness instead of for the answers given in response to the question.

A. In a great many instances the question was answered by the plain word "Webster." 4940

Q. 41. In other instances it was answered how? A. Noah Webster.

Q. 42. And in other instances? A. "No; don't know; can't tell; never heard."

Q. 43. The sixth question? A. "When do you think these definitions were written and that spelling fixed?"

4941

(Thomas I. Skeoch—Cross.)

Q. 44. From your investigation are you able to state what the general public think as to the date of the fixing of this spelling and the writing of these definitions? A. I got the answer "no" to that, "don't know, can't tell."

Q. 45. During how many days did you pursue this investigation? A. Five days.

4942

Q. 46. And during that period about how many persons did you interview? A. To the best of my recollection about 340.

MR. CARROLL: That is all.

CROSS EXAMINATION by Mr. Hale:

x Q. 47. Did you ask any other questions whatsoever besides the six which you have placed upon the record? A. None whatever.

4943

x Q. 48. In the course of your inquiries, did you find any persons who had never before heard of Webster's dictionary? A. No.

x Q. 50. Did any person upon any of these occasions say anything to you about having used Webster's dictionary in their school days? A. No, I cannot recall that they did.

x Q. 51. Are you certain that they did not? A. I would not go on record as being certain.

4944

x Q. 52. Did anyone ever refer to their past use of Webster's dictionary or their past acquaintance with it in any way? A. No, I had no occasion to question them along that line, and that would not elicit that reply, I don't think.

x Q. 53. And no one volunteered that in any of your conversations? A. Not to my recollection, no.

x Q. 54. You are referring now to this Boston experience? A. Yes, I presume that is what you were referring to, yes.

(*Thomas I. Skeoch—Cross.*)

4945

x Q. 55. How about people you talked with at the earlier stage, eight or nine months ago, for instance? A. No, I cannot recall any conversation along that line whatever.

x Q. 56. Did you ever specifically call the attention of any person that this dictionary of the Syndicate Publishing Company, which you were talking to them about, was not of the old series of Webster's dictionaries?

4947

MR. CARROLL: Objected to on the ground that this witness has not testified that he ever discussed any particular dictionary published by any particular publisher with any one of these persons questioned.

A. I have.

x Q. 57. What did you say to them upon such occasions? A. Well, I had in mind the fact that we had a clause in our dictionary and our dictionary advertising to the effect that this was not gotten out by the supposedly original publisher of the Webster's dictionary, and in my conversation with one or two—I don't know, it may have been three or four—I told them that this was not,—they asked me specifically who was the publisher of this, and I said, "The Syndicate Publishing Company," and they accordingly remarked, well, this was not the original publisher of Webster's dictionary, and I said, no, it was not; it was the Syndicate Publishing Company. That was about the extent of the conversations. I just remember that in passing.

4947

4948

x Q. 58. That was substantially the whole of it upon that subject? A. Yes.

x Q. 59. And all such conversations occurred after the Syndicate Publishing Company had

4949

(Thomas I. Skeoch—Cross.)

begun to use that form of notice? A. I imagine it would be, yes.

x Q. 60. Did you explain to those persons just how the Syndicate Publishing Company came into the Webster's dictionary business? A. No, I have no knowledge of that.

x Q. 61. Or what connection their book had with any genuine Webster's dictionary?

4950

MR. CARROLL: Objected to, inasmuch as it has already been thoroughly proven that Defendant's dictionary is a genuine Webster's dictionary.

A. No; I have not.

4951

MR. HALE: In view of counsel's objection, he is requested to indicate in the testimony of which witness will be found any proof bearing upon the question of whether or not Defendant's book is a genuine Webster's dictionary, or what testimony he refers to by his objection.

MR. CARROLL: Defendant's Counsel refuses to answer. The testimony speaks for itself.

4952

MR. HALE: Complainant's Counsel states that no evidence whatever has been offered either tending to show or purporting to show that Defendant's book has any connection whatever with any genuine Webster's dictionary with which Noah Webster ever had anything to do. If there is such testimony Defendant's Counsel is requested to point it out.

MR. CARROLL: Defendant's Counsel replies that he considers it unnecessary at

(*Thomas I. Skeoch—Re-Direct.*)

4953

this point to enter into a discussion of the past testimony. He also considers it unnecessary for defendant to introduce any evidence on this subject whatever in view of the fact that complainant has not attempted in any way to show by a line of evidence that the dictionary of the defendant was not a genuine Webster's dictionary, and therefore the prima facie statement that it is a Webster's dictionary stands un rebutted.

4954

MR. HALE: Complainant is not required to prove the negative in the first instance.

RE-DIRECT EXAMINATION by Mr. Carroll:

Re-D. Q. 62. I just want to ask you one question: Did these persons with whom you have testified you discussed whether or not the Syndicate Publishing Company were the original publishers of Webster's dictionary, thereafter or at or about that time purchase one of the dictionaries of the Syndicate Publishing Company? A. Yes.

4955

Re-D. Q. 63. They apparently were in no way deterred by the knowledge of the fact that it was not published by the original publishers? A. No.

(Further hearing adjourned to Monday, June 10th, 1912, at 11:00 A. M.)

4956

DEPOSITION CLOSED.

Signature of witness waived by consent.

(*Arthur T. Leon—Direct.*)

NEW YORK, Monday, June 10th, 1912.

Met pursuant to adjournment.

Present: Counsel as before.

ARTHUR T. LEON, a witness called by and on behalf of the defendants, having been first duly cautioned and sworn, testified as follows:

DIRECT EXAMINATION by Mr. Carroll:

Q. 1. What is your name? A. Arthur T. Leon.

Q. 2. Age? A. Going on 45.

Q. 3. Residence? A. New Rochelle, New York.

Q. 4. Are you connected with the Cupples & Leon Company, one of the defendants in these cases? A. Yes, sir, I am vice-president and treasurer.

Q. 5. Does the firm of Cupples & Leon Company publish Webster's New Century Dictionary? A. Yes, sir.

Q. 6. When did it begin the publication of this book? A. What do you mean?

Q. 7. When did it begin the publication of a book entitled Webster's New Century Dictionary? A. About the middle of 1907.

Q. 8. How does the Cupples & Leon Company dispose of whatever books it may sell? A. Through the trade, department stores, book stores and general trade.

Q. 9. Does it do any retail business in Webster's dictionaries? A. No, sir, unless a person once in a while, as they do of any book on our list, sends in by mail. I don't think we have sold ten copies since we have sold the dictionaries at retail.

(*Arthur T. Leon—Direct.*)

4961

Q. 10. What is the arrangement made with the ordinary customers of the dictionary? A. They are sold to them.

Q. 11. Are they sold outright? A. Absolutely.

Q. 12. Do you advertise the dictionary at all? A. Only in circulars and catalogues.

Q. 13. To whom are these circulars and catalogues sent? A. The trade.

Q. 14. When you began publishing this book under the name and title of Webster's New Century Dictionary, what was your impression as to the right of any publisher to publish Webster's dictionaries?

4962

MR. HALE: Objected to as incompetent, immaterial and irrelevant, and as calling for the opinion of the witness upon a question of law.

A. That the name Webster was absolutely open to the general public.

4963

Q. 15. Did you ever hear of litigation between George W. Ogilvie and the G. & C. Merriam Company? A. Yes, sir.

Q. 16. When did you hear about that litigation? A. Well, I should think about four or five years ago, whenever the suit was started.

Q. 17. What did you hear about that litigation at that time? A. I understood that the Merriam Company were suing Ogilvie and Ogilvie was suing the Merriam Company.

4964

Q. 18. Did you at that time know anything about the outcome of that litigation? A. Well, I heard—that is, I saw in the Publishers' Weekly Ogilvie won his suit and that the name Webster was at large to the public and could be used by anybody.

4965

(Arthur T. Leon—Direct.)

Q. 19. Did you have any communication with the G. & C. Merriam Company of Springfield, Mass., at the time you began publishing this book?

A. No, sir.

Q. 20. Did you at any time have any communication with the G. & C. Merriam Company about the publication of this book? A. Well, I guess in 1911 we had a letter from the Merriam Company in October, 1911.

4966

Q. 21. What was the substance of that letter?

MR. HALE: Objected to unless the letter is produced.

Q. 22. Have you a copy of that letter? A. No.

Q. 23. What was the substance of that letter?

MR. HALE: The objection is renewed, as the absence of the letter has not been accounted for.

4967

A. That "notwithstanding the very pleasant interview that Mr. Leon and Mr. Brooks had with us, we herewith send you formal notice about publishing of your dictionary," and then enclosed with it was a notice, which I cannot exactly tell the whole wording of, but they thought that we were publishing the dictionary in violation and unfair competition, something to that effect.

Q. 24. About what was the date of this letter?

4968

A. I believe October 18th; 18th or 19th, 1911.

Q. 25. Had you before that time indirectly learned that the G. & C. Merriam Company were objecting to the publication of your Webster's New Century Dictionary? A. Just a day or two before we received a letter from the Stewart Company of Baltimore enclosing a copy of the Merriam's letter to them.

(*Arthur T. Leon—Direct.*)

4969

Q. 26. Is this letter which I show you the letter which you received from Stewart & Company? A. Yes, sir.

Q. 27. Which you have just referred to? A. Yes.

Q. 28. And is this copy which I show you a copy of the letter from G. & C. Merriam Company to Stewart & Company which was enclosed in the letter to you? A. Yes, sir.

4970

MR. CARROLL: By consent of counsel for the G. & C. Merriam Company, the two letters just referred to are spread upon the record.

The letters read as follows:

"119 Fifth Avenue,
New York,
October 16, 1911.

4971

CUPPLES & LEON COMPANY,
443 Fourth Avenue,
New York.

DEAR SIRS: We are enclosing herewith a copy of a letter from G. & C. Merriam Co. to Stewart & Co. of Baltimore under date of October 5th, together with a copy of our reply thereto. As these dictionaries were purchased from you we must request that you advise us immediately as to your right to publish the same and place us in a position so that we may continue the sale of such dictionaries as we have purchased without incurring any liability to the G. & C. Merriam Co.

4972

Very truly yours,

STEWART & Co.

By ERNEST STAUFFEN, JR.,
Vice-President."

4973

(Arthur T. Leon—Direct.)

"COPY

SPRINGFIELD, Mass., October 5, 1911.

MESSRS. STEWART & Co.

Howard & Lexington Strs.,
Baltimore, Md.

GENTLEMEN:—

4974

Your advertisement and sale of a dictionary entitled "Webster's New Century Dictionary—New U. S. Census" has been called to our attention, and we desire to give you formal notice that such advertisement and sale is a plain violation of our rights as the prior and long established publishers of the well known "Webster's" dictionaries. Your book and advertisements are well calculated to deceive the public, and lead them to buy your book in the belief that it is one of our books. This is unfair competition and we are advised by our counsel that it is actionable. The courts have so declared, in several cases, and we have other actions pending against other like infringers upon our rights. We shall insist that our rights, as declared by the courts, be respected.

4975

Trusting that you will at once desist from any further violation of our rights, and awaiting any explanation you care to make, we remain,

4976

Yours truly,

G. & C. MERRIAM Co.,

By O. M. BAKER, President."

Q. 29. Was the letter received by Stewart & Company, a copy of which was sent to you with the above letter from Stewart & Company dated

(*Arthur T. Leon—Direct.*)

4976

October 16th, 1911, copies of both letters appearing in the record, substantially the same as the letter subsequently received by you from the G. & C. Merriam Company? A. I believe so.

Q. 30. Was this letter from Stewart & Company, dated October 16th, 1911, the first intimation of any kind which you had that the G. & C. Merriam Company objected in any way to your publication of Webster's New Century Dictionary? A. Absolutely.

4978

Q. 31. What did you do upon receipt of this letter? A. Went to Springfield.

Q. 32. Who went to Springfield? A. Myself and our secretary, Mr. Brooks.

Q. 33. What did you do in Springfield?

MR. HALE: Objected to as incompetent, irrelevant and immaterial.

A. We had an interview with Mr. Baker and Mr. Washburn.

4979

Q. 34. What occurred at that interview; just what was said at that interview? A. We had very pleasant talks about old times, and it finally wound up, I asked them what they meant by the letter, that we wanted to do anything that was fair, and did not want to do anything to violate the law, and if they had any rights in the name "Webster," that we would abandon the name Webster after consultation with our attorney, if those rights in our attorney's estimation were upheld and justified.

4980

Q. 35. When you returned from Springfield, did you consult your attorneys? A. We did.

Q. 36. And did you learn anything more about the Ogilvie decisions? A. We did.

Q. 37. What did you learn about those decisions

4981

(Arthur T. Leon—Direct.)

4982

then? A. Our attorneys read us several decisions in the Ogilvie case, and told us that the Court had asked Ogilvie to put in his dictionaries and his advertisements a clause, "This dictionary is not published by the original publishers of Webster's dictionary or their successors," but in our opinion, or rather in our attorney's opinion, they did not think this was necessary in this case as Ogilvie had not alone used the word Webster which was at large to the general public but had also put in words which might lead the public to believe that they were buying a book or books established by the Merriam Company instead of the Ogilvie books. But after consultation between my partner and myself we decided to give the Merriams the benefit of every doubt, and voluntarily put in the notice in all our dictionaries, "This dictionary is not published by the original publisher of Webster's dictionary or their successors."

4983

Q. 38. At about what date did you have this interview with your attorneys in which you were advised about the Ogilvie decisions? A. I should say about October 19th to 20th; somewhere about that date, 1911.

Q. 39. Did you immediately thereafter make any change in your title pages? A. Yes, sir.

4984

Q. 40. What change did you make? A. We first ordered a rubber stamp with those words on and every dictionary was stamped until we had a new title page printed and the old ones cancelled and put in.

Q. Did every dictionary issued by you after a date, approximately the 25th of October, 1911, contain upon its title page, either printed or by rubber stamp the notice, "This dictionary is not

(*Arthur T. Leon—Direct.*)

4985

published by the original publishers of Webster's dictionary or by their successors?" A. I think not until November 2nd, which was the date that we received the rubber stamps.

Q. 42. On and after November 2nd then every dictionary issued by you contained that notice? A. Absolutely.

Q. 43. From the beginning of your publication of Webster's New Century Dictionary, did your name "Cupples & Leon Company" always appear as the publisher upon the title page of your dictionary? A. Yes, sir.

4986

Q. 44. From the beginning of your publication of Webster's New Century Dictionary, did your name Cupples & Leon Co. always appear upon the back of your dictionary? A. Yes, sir, with one exception.

Q. 45. What was that exception? A. We printed one edition, and on account of the cost and trying to reduce the manufacture of the book we left that name off, as we had to compete against other books which were being sold at a low price, and we had to reduce our cost as much as possible in order to compete.

4987

Q. 46. I show you a copy of Webster's New Century Dictionary, and ask you if that is the dictionary in the form in which it was published before October, 1911? A. Yes, sir. I might also say that we put on the back of all our publications our name, which is customary in the trade.

4988

MR. CARROLL: I offer that book in evidence.

(Book referred to marked "Defendant's Specimen book, showing form prior to October 1911, June 10, 1912, JAS., Exr.")

4989

(Arthur T. Leon—Direct.)

Q. 47. I show you another copy of Webster's New Century Dictionary, and ask you if that is the form in which all your dictionaries appeared on and after November 2nd, 1911? A. Yes, sir.

MR. CARROLL: I offer that book in evidence.

4990

(Book referred to marked "Defendant's Specimen Book, showing form on and after November 2nd, 1911, June 10, 1912, JAS. Exr.")

Q. 48. Did you on and after the delivery of the above mentioned rubber stamp on November 2nd, 1911, mark with this stamp every catalogue and every circular which was issued by the Cupples & Leon Company? A. Relating to that dictionary, yes, sir.

4991

Q. 49. I show you a copy of one of your catalogues in the form issued by you in the year 1911 for the year 1911 — 1912, and bearing upon the page relating to Webster's New Century Dictionary, the notice "This dictionary is not published by the original publishers of Webster's dictionaries or by their successors," and I ask you if that is the form in which all of your catalogues were issued on and after November 2nd, 1911? A. Yes, sir.

4992

MR. CARROLL: I offer that in evidence.

(Catalogue referred to marked "Defendant's Exhibit, showing form of catalogue issued by the defendant, Cupples & Leon Company, on and after November 2nd, 1911, June 10th, 1912, JAS., Exr.")

Q. 50. Do you remember on or about what date the bill of complaint was filed in this case? A.

(*Arthur T. Leon—Direct.*)

4993

Well, I believe it was some time after November 8th, because I sailed for Europe on that date.

Q. 51. At the time when you sailed for Europe on November 8th, had any bill of complaint been filed? A. No, sir, not to my knowledge.

Q. 52. Did you at that time have any expectation that the complainant in this action would bring suit against the defendant?

MR. HALE: Objected to as incompetent, irrelevant and immaterial. 4994

A. I did not, or I would not have sailed for Europe.

Q. 53. What Webster's dictionaries not published by the G. & C. Merriam Company have you known about during the course of your book business?

MR. HALE: Objected to, unless the books themselves, or specimens of them are produced, because otherwise the question calls for secondary evidence of the contents of such books especially as to title page and covers and inscriptions, it cannot be shown whether or not the publishers of the books referred to have conformed to the limitations upon their rights. 4995

A. The series of Webster's dictionaries published by Laird & Lee, Webster's Modern Dictionary, Webster's vest pocket dictionary; Webster's Standard Dictionary, Elementary edition, Webster's Standard Dictionary, intermediate edition, Webster's Standard Dictionary, Common School Edition; Webster's standard Dictionary, High School and Collegiate Edition, and Webster's Standard Dic- 4996

4997

(Arthur T. Leon—Direct.)

tionary, Encyclopedia Edition. The book published by J. C. Winston, Philadelphia, Webster's New Self Pronouncing dictionary; published by Hearst & Company, New York, Peabody's Webster; Webster's dictionary, book published by David McKay, Philadelphia; Hill's Webster's vest pocket dictionary; book published by John Hovendon, Webster's Standard American Dic-

4998

tionary; book published by the National Publishing Company, Philadelphia. I don't know the name of it, but is published under the name of Webster's dictionary. Book published by C. C. Thompson, successor to Thompson & Thomas, Webster's School and Office dictionary. Book published by the Monarch Book Company, I don't know the title. Series of books published by Saalfeld Publishing Company; book published by the Syndicate Publishing Company, Webster's New Illustrated Dictionary; book by M. A. Donahue & Company of Chicago, Donahue Webster's Standard American Dictionary. I think that is about all.

4999

Q. 54. How many years have you been in the book business? A. Twenty-four years, between twenty-four or twenty-five years.

5000

Q. 55. What Webster's dictionaries not published by the G. & C. Merriam Company, do you remember at or about the beginning of your experience in the book business? A. At that time I did very little in the trade, so I don't remember. The first dictionary I remember was published by Henry G. Allen, Webster's Unabridged Dictionary. After that a book published by Ogilvie. I don't remember whether it was J. S. Ogilvie. Then Laird & Lee's Webster's Modern Dictionary, Webster's vest pocket dictionary, Donahue

(*Arthur T. Leon—Direct.*)

5001

& Henneberry published Webster's Unabridged Dictionary; Hearst & Company published Peabody's Webster.

Q. 56. Can you approximately fix the date or when you heard about the first of these dictionaries? A. I should say somewhere about 1890.

Q. 57. Is the list which you have just given approximately in the order in which you heard of these books? A. Practically, yes.

Q. 58. Have you during the period of your experience in the book business from time to time observed advertisements in various forms by other publishers than the G. & C. Merriam Company in connection with Webster's dictionaries?

5002

A. Yes, sir.

Q. 59. Will you state some of those forms?

MR. HALE: Objected to as calling for secondary evidence and as incompetent.

A. Newspapers, circulars, catalogues, catalogues of mail order houses.

5003

Q. 60. Have any of the dry goods houses in the country advertised Webster's dictionaries not published by the G. & C. Merriam Company?

A. Yes, sir.

Q. 61. Can you state what proportion of dry goods houses have at one time or another advertised Webster's dictionaries not published by the Merriam Company?

5004

MR. HALE: Objected to as incompetent, irrelevant and immaterial, and calling for a mere surmise.

A. I think almost every dry goods house that handles books and dictionaries has advertised them.

5005

(Arthur T. Leon—Direct.)

Q. 62. You spoke about mail order houses as having advertised Webster's dictionaries not published by the G. & C. Merriam Company. Will you kindly give me the names of such mail order houses? A. Montgomery, Ward & Company, Sears, Roebuck & Company, Book Supply Company of Chicago.

5006

Q. 63. For how many years have you known these mail order houses to advertise such Webster's dictionaries? A. I should think fifteen or twenty years.

Q. 64. How many of these catalogues do the mail order houses distribute each year? A. They claim from two to five million.

5007

MR. HALE: The answer is objected to as obviously mere hearsay and not a matter of fact within the knowledge of the witness, and motion is made to strike it out.

Q. 65. Can you estimate the approximate cost of the advertising given to Webster's dictionary not published by the G. & C. Merriam Company in the last twenty years which you have seen?

MR. HALE: Objected to as calling merely for a wild guess.

5008

A. I should say over a million dollars. That is not counting the recent advertising of the Syndicate Publishing Company, which I guess has done a good deal more than that, more than all the others combined

Q. 66. Do you know whether or not any of the Laird & Lee dictionaries which you have mentioned above are used in the schools throughout the country? A. I understand so.

(*Arthur T. Leon—Direct.*)

5009

MR. HALE: The answer is objected to as hearsay and not based upon knowledge of the witness, unless the grounds of his understanding are stated.

Q. 67. Do you know any states in which the Laird & Lee Webster's dictionaries mentioned have been approved for use in the schools by the school authorities; if so, please name them? A. Indiana, Illinois, Ohio, Michigan, Maryland, Kansas, Nebraska, Missouri, Oklahoma and Utah.

5010

Q. 68. More particularly can you name any large cities in the schools of which the Laird & Lee Webster's dictionaries are used? A. Los Angeles, Salt Lake City, Chicago, Indianapolis, Baltimore and I believe Seattle. I am not sure.

Q. 69. Have the Laird & Lee Webster's dictionaries above mentioned, to your knowledge, received any medals or awards in national or international expositions?

5011

MR. HALE: Objected to as incompetent, irrelevant, immaterial and further as calling for mere hearsay, unless the ground of the witness's knowledge is first shown.

A. I believe so.

Q. 70. In what expositions have medals or awards been given to the Laird & Lee Company for their Webster's dictionaries?

5012

MR. HALE: The same objection is repeated.

A. St. Louis, Charlestown, Portland, Jamestown, and Buffalo, at the Pan American.

MR. CARROLL: That is all.

5013

(Arthur T. Leon—Direct.)

CROSS EXAMINATION by Mr. Hale:

x Q. 71. When did you first publish your book called Webster's New Century Dictionary? A. About the middle of 1907.

x Q. 72. Who compiled that original book? A. I understand it was compiled by E. T. Roe.

x Q. 73. Who is E. T. Roe? A. I understand a literary man who compiles dictionaries.

5014

x Q. 74. Have you ever met him? A. I may and I may not. I don't know. I have never met him; I may have seen him.

x Q. 75. Have you ever been in communication with him? A. I don't think so.

x Q. 76. Directly or indirectly? A. What do you mean by directly or indirectly?

x Q. 77. Have you had any communication with him in any way either directly or through agents or by correspondence? A. I have never corre-

5015

sponded with him.

x Q. 78. Has Cupples & Leon ever corresponded with him? A. Not to my knowledge.

x Q. 79. Has any representative of Cupples & Leon ever corresponded with him? A. They may.

x Q. 80. What is your best information and belief on that subject? A. I think they have.

x Q. 81. When? A. Some time in 1911, I believe.

5016

x Q. 82. After your interview and the notice of the Merriam Company as to your use of the name Webster on this book? A. I don't remember whether it was before or after.

x Q. 83. Where was Mr. Roe at that time. A. I believe in Chicago.

x Q. 84. What was his address in Chicago then? A. I don't know.

(Arthur T. Leon—Cross.)

5017

x Q. 85. What do you understand it to be or to have been? A. I understood he worked for Laird & Lee.

x Q. 86. You know where Laird & Lee can be found? A. Yes.

x Q. 87. Did Mr. Roe prepare the manuscript for this book for your concern? A. No, sir.

x Q. 88. From whom did you obtain this book? A. From Louis Klopsch, Christian Herald.

5018

x Q. 89. When you published this book, then, in the middle of 1907 it was a republication of a book that had been previously published? A. Yes, sir.

x Q. 90. In fact, it was the book known as the Crown Dictionary which has been referred to in the pleadings? A. I believe so.

x Q. 91. What did you purchase from Louis Klopsch in this connection? A. A set of plates and the right to publish.

5019

x Q. 92. Was there a written contract upon that subject? A. Yes, sir.

x Q. 93. Have you a copy of that contract? A. No, sir; I don't know if we have or not. I guess we have.

x Q. 94. Will you please produce it here? A. No.

MR. CARROLL: Not having been directed to produce it by subpoena *duces tecum*, defendant is not prepared to produce it.

5020

MR. HALE: Defendant's counsel are called upon to produce the contract for the cross examination of this witness.

MR. CARROLL: Defendant's counsel objects to producing such a contract unless specifically directed to do so by subpoena

5021

(Arthur T. Leon—Cross.)

duces tecum, which subpoena will be objected to on the ground that the request is incompetent, irrelevant and immaterial.

x Q. 95. What was the price paid to Louis Klopsch for what you bought from him? A. I refuse to answer.

5022

x Q. 96. After you bought the plates what was the first thing you did? A. Bought paper, sent the plates to the printer and published the book.

x Q. 97. Under what name? A. Students New Century Dictionary.

x Q. 98. In other words, upon your first publication of it you changed its name? A. Yes, sir. We changed the name because—

5023

x Q. 99. Hold on. That is all that is relevant there. At the time you made this purchase of plates of the Crown Dictionary had you then determined to changed its name to Students New Century Dictionary? A. We did not know what name we would use, but we could not use the name Crown Dictionary because that was still being used by the Christian Herald, and it was understood that we were to publish it under another name.

x Q. 100. Was that part of the contract? A. I think it was a verbal agreement.

5024

x Q. 101. How long did you publish this book under the title of Students New Century Dictionary? A. About two and a half years.

x Q. 102. Then did you again change the title of this book? A. Yes, sir.

x Q. 103. What was the date of that change? A. About the middle of 1907.

x Q. 104. You have stated that you purchased the book in the middle of 1907? A. No, sir, I did

(*Arthur T. Leon—Cross.*)

5025

not. I never have stated it. You asked me when we published the book under the name Webster's New Century Dictionary. I told you the middle of 1907. We purchased the book in 1904.

x Q. 105. In other words, you published the book from 1904 until the middle of 1907— A. From 1905. We purchased the book late in 1904 and we published the book in 1905 and 1906 until the middle of 1907 under the name Students New Century Dictionary.

5026

x Q. 106. And then in the middle of 1907 or about that time you again changed the title and adopted the title Webster's New Century Dictionary? A. Yes, sir.

x Q. 107. Whose idea was it to change the title and use the name Webster at that time? A. We had several requests from our large customers who called our attention to the fact that we had a Webster's dictionary as printed on the title page, that it was based upon the unabridged dictionary of Noah Webster, and they did not see any reason why we could not call it a Webster, or change it to Webster's New Century Dictionary, the right name.

5027

x Q. 108. In other words you changed this name at the suggestion of your customers among the trade? A. Yes.

x Q. 109. And the suggestion and idea came from them and was not original with yourself? A. Yes.

5028

x Q. 110. At that time did you take legal advice as to your right to change the name? A. No sir, because we did not believe it was necessary.

x Q. 111. Just what was your idea as to your right as one of the public to use the name Webster in connection with dictionaries? A. That any-

(*Arthur T. Leon—Cross.*)

5029

body who had a dictionary which was based upon the unabridged dictionary of Noah Webster could call it Webster's dictionary.

x Q. 112. And is that still your view? A. Yes sir.

x Q. 113. And you made no further investigations than you have here stated as to your right to make that change? A. No sir.

5030

x Q. 114. What if any editorial changes or revisions did you make when you first published the book under the name Students New Century Dictionary; I mean changes from the Crown Dictionary? A. I don't remember.

x Q. 115. Did you make any substantial or considerable changes? A. I don't remember that.

x Q. 116. As a matter of fact you know and believe that you did not, don't you? A. I don't know how many changes there were made.

5031

x Q. 117. What if any changes were made when you changed the title again from Students New Century Dictionary to Webster's New Century Dictionary? A. New words added.

x Q. 118. How many? A. I don't know.

x Q. 119. As many as twenty? A. Yes, more than that I guess.

x Q. 120. As many as one hundred? A. I don't know, as I did not attend to that part of the business.

5032

x Q. 121. Who did attend to that part of the business? A. I got somebody who fixed it.

x Q. 122. Who did you get to fix it? A. I don't remember who did the first part.

x Q. 123. Who did any part? A. One of our literary men.

x Q. 124. What is his name? A. He is in our employ.

(Arthur T. Leon—Cross.)

5033

x Q. 125. What is his name? A. Mr. Lazarus.

x Q. 126. What is his position in your company?

A. He has charge of the advertisement and editorial work.

x Q. 127. Did he do editorial work besides the editorial work upon this dictionary? A. Yes sir.

x Q. 128. Is he still in your employ? A. Yes sir.

x Q. 129. Do you know of your own knowledge whether or not this dictionary of yours is in fact based upon any edition of Webster's dictionary? A. Yes sir.

5034

x Q. 130. What personal knowledge or information have you upon that subject? A. From my own comparison.

x Q. 131. What comparison did you make? A. I compared the book with Webster's 1847 edition or one of the early Websters.

x Q. 132. With which book did you compare it? A. I think it was the 1847.

x Q. 133. What was the extent of that comparison? A. Oh, I spent several evenings, several hours at a time.

5035

x Q. 134. Did you reduce the results of that comparison to writing in any way? A. I think I had a lot of words which I wrote down in our book and in Websters.

x Q. 135. What words were they? A. I don't remember. I took them at random. I took some pages here and took some pages there, skipped and went along through the book.

5036

x Q. 136. Can you point out any word or definition in your dictionary which was taken from the 1847 edition of Websters unabridged dictionary?

A. I guess I could by going through it again.

x Q. 137. The books are before you. Please do so? A. The books are not before me.

5037

(Arthur T. Leon—Cross.)

x Q. 138. Your book is before you? A. Yes, but I have to compare it with the 1847 Websters in order to show you.

x Q. 139. And you did not keep a memorandum of your comparison? A. They were torn up afterwards.

x Q. 140. Why did you tear them up? A. Because there were other searches made more comprehensive.

5038

x Q. 141. Who made these other searches to which you refer? A. I don't know.

x Q. 142. What information have you as to these other searches? A. I think Professor Peck made them.

5039

x Q. 143. From the time you began the publication of this book up to the present date, have you maintained an editorial force engaged in the revision of this dictionary from time to time? A. Our editorial force does whatever is necessary to any of our books.

x Q. 144. Who constitutes your editorial force? A. The man I mentioned, Mr. Lazarus, and if necessary we employ other people.

x Q. 145. Have you found it necessary to employ anyone besides Mr. Lazarus upon this dictionary? A. I think we did before have somebody. I don't know who did it, though, because as I told you it is not my part of the work.

5040

x Q. 146. Who will know the facts in that connection in your concern? A. I guess Mr. Cupples will know.

x Q. 147. What precise book do you claim your book is based upon? A. I did not compile the book and for that reason I don't know. "Upon the unabridged dictionary of Noah Webster's" it says upon the title page.

(*Arthur T. Leon—Cross.*)

5041

x Q. 148. And is that all you know about it?
A. It is.

x Q. 149. Have you any knowledge or information which might lead you to doubt whether this book was in fact based upon the unabridged dictionary of Noah Webster? A. No sir.

x Q. 150. No knowledge or information suggesting that it is based upon some other book? A. No.

x Q. 151. Have you ever heard the title of any other book suggested as the book upon which this book was really based? A. Not that I remember.

5042

x Q. 152. You have no recollection whatever of any other dictionary? A. No sir.

x Q. 153. Have you any information, or have you ever heard that the Crown dictionary of which your book is a substantial reproduction was based upon some English dictionary? A. No sir.

x Q. 154. Do you know what the fact is in that regard? A. No sir.

x Q. 155. And you have no information? A. No.

5043

x Q. 156. No one ever told you that it was in fact not based upon Webster's dictionary? A. Absolutely not.

x Q. 157. Either directly or indirectly? A. Not that I remember.

x Q. 158. Has there been any general revision or change of the contents of your book since the time you first acquired it except the addition of the few words more or less which you have stated were added? A. Yes, we made several additions.

5044

x Q. 159. What were they? A. Well, new census, new political changes.

x Q. 160. Such additions as you made were in the preparatory or supplemental part of the book, and not in the vocabulary of the dictionary

5045

(Arthur T. Leon—Cross.)

proper? A. Outside of the changes we made in the vocabulary, those were in the supplemental.

x Q. 161. Has the dictionary part proper, that is, the word list and the definitions always been printed from the same plates or duplicates which you acquired from Louis Klopsch? A. Yes, with the exception of the changes we made.

5046

x Q. 162. Those changes were made by sawing or cutting the plates; that is by what are termed plate corrections? A. Plate corrections, sometimes we set up an entirely new page where it was necessary.

x Q. 163. How many entirely new pages have you ever set up? A. I don't know.

x Q. 164. Can you point out any new pages which were entirely set up by you? A. No, I don't think I could.

5047

x Q. 165. What was the date of the comments in the Publishers Weekly in regard to the Ogilvie litigation which you say you saw? A. I could not remember.

x Q. 166. That was some five or six years ago, though? A. I believe so.

x Q. 167. Have you copies of the Publishers Weekly which you saw at that time? A. I don't know. It may be barely possible and may be not.

x Q. 168. Have you looked them up since this controversy was started? A. No, sir.

5048

x Q. 169. In the copy of your dictionary which you have offered in evidence as "Defendant's Exhibit Specimen Book showing the form prior to October, 1911," I noticed two copyright notices as follows: "Copyright 1904 by Louis Klopsch, New York," "Copyright 1905 by Cupples & Leon, New York." In the Exhibit filed with the bill of complaint herein marked Complainant's Exhibit,

(*Arthur T. Leon—Cross.*)

5049

Defendant's Dictionary, I notice you only have one copyright notice as follows: "Copyright 1911 by Cupples & Leon Company." Why did you omit the two prior copyright notices? A. That was an omission of the printer's.

x Q 170. What is the answer, please? A. It was an omission of the printers, subsequently corrected.

x Q. 171. Not corrected, however, until after October, 1911? A. I would not be sure of that.

5050

x Q. 172. What new matter is there in the dictionary of the edition filed as an exhibit with the bill marked "copyright 1911," to which the 1911 copyright refers? A. Quite a lot.

x Q. 173. What; describe it, or indicate it? A. Pictures, words.

x Q. 174. What else? A. U. S. Census, an article of political changes.

x Q. 175. How many new words were there? A. I don't know.

5051

x Q. 176. Do you know whether there were any or not? A. Yes, sir.

x Q. 177. Who prepared the title page in your first edition of the book under the name of Webster's New Century Dictionary? A. I cannot remember. I think it was an exact copy of the original one.

x Q. 178. You mean a copy with the substitution of the name "Webster" for the word "Crown," and the change in the form of display? A. Probably.

5052

x Q. 179. Whose idea was it to feature the name Noah Webster upon the title page of your book whereas it was not so featured upon the title page of the Crown dictionary? A. I don't remember whose idea it was.

(*Arthur T. Leon—Cross.*)

5053

x Q. 180. Except for the opinion which you have expressed based upon the comparison which you say you made of this book with the 1847 Webster, you do not know whether or not the statement upon the title page of the book is true, namely, "based upon the unabridged dictionary of Noah Webster?" A. Well, Profesor Peck told me he made the comparisons and found it to be a Webster, based upon the unabridged dictionary of Webster.

5054

x Q. 181. But that is the sole extent of your information upon that subject? A. Yes, sir.

x Q. 182. What do you mean by the word "based upon" in that statement in your book? A. A lot of the words which are in all dictionaries are taken from the old unabridged dictionary of Noah Webster with the abridged definitions.

5055

x Q. 183. In other words that statement upon your book means that the unabridged dictionary of Noah Webster was actually used in the composition of this book? A. I should think so.

x Q. 184. And that some part of the literary matter contained in the dictionary of Noah Webster is reproduced or carried forward into this book? A. It may be in abridged form.

x Q. 185. But you mean it was before the Editor and was used by him in an abridged form, or he made selections therefrom? A. Yes.

5056

x Q. 186. And that is what that statement means upon your book? A. Yes.

x Q. 187. Until November 2nd, 1911, the dictionaries published by you under the name of Webster did not carry the warning notice, "This dictionary is not published by the original publishers of Webster's dictionaries or by their successors"? A. No sir.

(*Arthur T. Leon—Cross.*)

5057

x Q. 188. And no advertisement of your dictionary bore those words? A. No sir.

x Q. 189. Have the advertisements of your dictionary since borne those words? A. All the advertising which we do direct such as circulars and catalogues have.

x Q. 190. Have you seen any advertisements of your book that did not bear those words? A. Any of ours?

5058

x Q. 191. Have you seen any advertisements of your book that did not bear those words? A. Not that I remember. Of our book.

x Q. 192. Yes. A. By ourselves?

x Q. 193. I mean, have you seen any advertisements of your Webster's New Century Dictionary which did not bear those warning words since November 2nd, 1911? A. Not that I remember.

x Q. 194. What is your best information and belief upon that subject? A. Well, I don't know; we do not control the advertising of our customers. 5059

x Q. 195. The question is not what you control but what you have seen. Have you seen any advertisement of your book by your customer or anyone else that did not contain those warning words since November, 1902? A. No, I don't remember.

x Q. 196. Did you at any time instruct your customers that those words must be used in their advertisements, and announcements of your dictionary? A. We did. 5060

x Q. 197. How did you notify them? A. Put it on our bills.

x Q. 198. What did you put upon your bills? A. It is necessary that all advertising of our dictionary must bear the following words.

5061

(Arthur T. Leon—Cross.)

x Q. 199. Is that the only thing you did in that regard, by placing that statement upon your bills? A. I think that is all.

x Q. 200. Did you take any steps to see that that notice was obeyed? A. No.

5062

x Q. 201. Your exhibit marked "Defendant's Exhibit, showing form of catalogue issued by defendant, Cupples & Leon Company on and after November 2nd, 1911", was issued some time after November 2nd, 1911, is that correct? A. Well, the catalogue itself was issued long before, but every catalogue that went out, our employees were strictly instructed to put that notice on.

x Q. 202. You mean the rubber stamp notice? A. Yes.

x Q. 203. When was the catalogue issued in its original form without the stamp notice? A. I think it was in June, 1911.

5063

RECESS UNTIL 2:15 P. M.

JUNE 10th, 1912,
2:15 P. M.

ARTHUR T. LEON, resumes the stand.

CROSS EXAMINATION CONTINUED by Mr. Hale:

5064

x Q. 204. This catalogue advertisement, therefore, speaks from its date of issue; is that correct? A. I don't know what you mean by that.

x Q. 205. The statements made in this catalogue advertisement. I suppose it to be true of the time when they were made; is that correct? A. Yes.

x Q. 206. In this catalogue advertisement I

(*Arthur T. Leon—Cross.*)

5065

find the statement, "up to date. New from A to Z. This dictionary is fresh from the press, and is revised and brought up to date; based upon the unabridged dictionary of Noah Webster, and embodies the latest decisions of the foremost American and English authorities on spelling, pronunciation and definition. It embodies all modern words and meanings up to the date of going to press." Is that statement true? A. As far as I know, yes.

5066

x Q. 207. Do you know whether it is true or not? A. I told you.

x Q. 208. What did you tell me? A. As far as I know.

x Q. 209. What do you know? A. It is supposed to be true, sure.

x Q. 210. Who revised and brought the book up-to-date as stated in the language quoted?

MR. CARROLL: I object to that as having already been fully answered by this witness.

5067

A. E. T. Roe and other literary men.

x Q. 211. All of E. T. Roe's work was done in the edition called the Crown dictionary, wasn't it? A. I think so.

x Q. 212. He did nothing to it after you bought the plates of the Crown Dictionary? A. No, sir.

x Q. 213. And Mr. Lazarus is the only one you can name who did any editorial work upon it after that date? A. Well, somebody else; I don't remember who.

5068

x Q. 214. And you don't remember what he did? A. I told you once before that that is out of my department.

x Q. 215. And the revision in bringing up-to-

(*Arthur T. Leon—Cross.*)

5069

date, so far as the dictionary was concerned, consisted in the plate corrections, the body of the book being printed from the original plates, bought from Louis Klopsch; is that correct? A. Yes, except as some of those pages have to be reset entirely.

5070

x Q. 216. This same advertisement contains the descriptive phrase, "An up-to-date and authoritative dictionary." What does the word authoritative mean in that connection? A. It means that every definition is put in according to authority.

x Q. 127. What authority? A. Webster and others.

x Q. 128. Do you know how a dictionary acquires what is termed authority? A. I suppose from the way definitions are given, and based upon some earlier or later authority.

5071

x Q. 219. In the dictionary filed with the bill, which bears the single copyright notice and the year 1911, I also noted upon the title page the phrase, "Revised and brought up to date in accordance with the most recent, eminent English and American authorities, by Edward T. Roe, L. L. B." Did the words, "Revised and brought up to date" in this statement upon the title page same as the similar words in the advertisement last called to your attention, which you have explained? A. Yes, except that we have added some other words which were not revised by Roe—were not put in by Roe.

5072

x Q. 220. And Roe's work was all done in a book published and copyrighted in the year 1904, whereas this book involved in this suit was published and copyrighted in the year 1911; is that correct? A. I think so.

(*Arthur T. Leon—Cross.*)

5073

x Q. 221. In this same catalogue advertisement I observe the following words, "This dictionary is not a cheap makeshift compiled of various sources of doubtful authority, neither is it a reprint from old plates, but a new, fully revised work, having for its basis the acknowledged fountain head of pure, correct English—the Noah Webster dictionary." Is that statement in your advertisement issued in the year 1911 true? A. Yes. When we first bought the book we were told that the—

5074

MR. HALE: I object to what the witness was told as hearsay.

THE WITNESS: (Continuing) The book was to be set up brand new, from A to Z.

MR. HALE: The statement of what the witness was told is objected to as hearsay and motion is made to strike it out; also upon the ground that it is not responsive.

5075

THE WITNESS: Well, I will say this: We bought it with the understanding—

MR. HALE: I object to any volunteered statement of the witness.

MR. CARROLL: Go ahead and answer.

THE WITNESS: We bought it with the understanding that it was a new dictionary set up from type, from A to Z, and brand new plates made.

5076

MR. HALE: The statement is objected to upon the grounds stated in the last previous objection and motion is made to strike it out.

5077

(Arthur T. Leon—Cross.)

THE WITNESS: And I also say that the plate maker came to us—

MR. HALE: I object to it, and I ask the Special Examiner to caution the witness that he must answer questions and not volunteer statements.

MR. CARROLL: You may discontinue. I will ask you those questions.

5078

x Q. 222. In this advertisement issued in 1911 you stated that your book was not a reprint from old plates; yet you have admitted that it is printed from plates purchased from Louis Klopsch and the Crown Dictionary, made and published seven years previous. Do you still maintain that the statement quoted to you is true? A. Absolutely, because I don't consider a book seven years old very old.

5079

x Q. 223. Nevertheless, it is true that your so-called Webster's Century Dictionary is reprinted from the plates of the seven year old Crown Dictionary? A. Not reprinted; it is printed, with a lot of additions.

x Q. 224. Of the character to which you have already testified? A. Yes.

5080

x Q. 225. Have you in your possession or under your control any copies of advertisements issued of your dictionary during the year 1911, and prior to the beginning of this suit? A. I don't know.

x Q. 226. Have you—that is, the defendant—in its possession any copies of any of the circulars, notices or announcements relating to this dictionary issued prior to the beginning of this suit? A. I don't know.

x Q. 227. Does the defendant keep an advertising register or its equivalent? A. It does.

(Arthur T. Leon—Cross.)

5081

x Q. 228. Such advertising register would contain such advertisements as you have issued, would it not? A. Probably.

x Q. 229. Will you produce the same here so that we may see the advertisements to which you have referred in your direct examination?

MR. CARROLL: Not without a subpoena *duces tecum*.

MR. HALE: Let us have the witness answer. That is counsel's statement. 5082

THE WITNESS: I will do so on the advice of counsel.

x Q. 230. As between you—that is, the Cupples & Leon Company and the Syndicate Publishing Company—which was first to change the title of the book to a form using the name Webster? A. I think we were; I am not sure.

x Q. 231. Has your company any arrangement with the Syndicate Publishing Company for the joint defense of these two suits, or for the sharing of the expenses thereof? 5083

MR. CARROLL: I object to that as incompetent, irrelevant and immaterial.

A. I refuse to answer.

x Q. 232. Have you, or the defendant, in its possession any letters which your customers wrote you suggesting that you change the name of your book from "Students' New Century" to "Webster's New Century Dictionary"? A. They didn't write any letter to that effect. We were told personally. 5084

x Q. 233. How many persons or concerns told you that personally? A. Several.

(*Arthur T. Leon—Cross.*)

5085

x Q. 234. How many? A. I could not say how many.

x Q. 235. Who were they? A. I don't remember.

x Q. 236. Do you remember the names of any of them? A. No, sir.

x Q. 237. Where were they located? A. I think probably one—Mr. Hesslein.

5086

x Q. 238. What is his address? A. Care of Adams & Yale, New York. I am not sure he was one.

x Q. 239. Can you recall any others? A. No.

x Q. 240. Can you recall the cities where they were located? A. No.

x Q. 241. What did they say to you? A. "Don't see why you call it the Webster's dictionary as stated on the title pages"; that it was based upon the unabridged dictionary of Noah Webster.

5087

x Q. 242. What else did they say? A. That is all.

x Q. 243. Can you recall anything else that they said? A. No.

x Q. 244. Did they suggest any reasons for changing it? A. No.

x Q. 245. Who furnishes the copies of the advertisements for your book issued by the trade? A. The trade.

5088

x Q. 246. You mean they prepare their own advertisements? A. Yes, sir.

x Q. 247. What data or information do you supply to them in that regard? A. Our catalogue.

x Q. 248. And the other advertising matter to which you have referred? A. What other advertising matter?

x Q. 249. You have testified that you have advertised by circulars and otherwise to the trade?

(Arthur T. Leon—Cross.)

508c

A. Well, circulars—practically a reproduction of that page in the catalogue.

x Q. 250. Do you mean to say you have never changed your form of advertisement of this book from the form that appears in this catalogue which has been made an exhibit? A. Well, we maybe changed the wording from time to time.

x Q. 251. What has been the retail price of your book from the time you began to use the name Webster in its title? A. Various prices.

5090

x Q. 252. Name them, please? A. The first one I think was a dollar and a quarter; a dollar seventy-five; two dollars; three dollars, and three dollars and a half, according to the style of binding. Then we got out a popular edition, and listed it at a dollar.

x Q. 253. And sold for what? A. Any price that the dealers saw fit.

x Q. 254. Have books actually been sold at retail at the prices which you have named? A. I suppose so.

5091

x Q. 255. Do you know? A. Well, I think Putnam's used to get their full list price. Brentano used to get their full list price.

x Q. 256. Have Putnams and Brentano handled your dictionary? A. Yes.

x Q. 257. In the course of retail trade? A. Yes, sir.

x Q. 258. I show you a copy of the style of book filed as an exhibit with the bill, and ask you what was the retail price of that style or edition? A. I think we put a retail price of two dollars and a half on it.

5092

x Q. 259. Has that book ever been sold at the retail price of two dollars and a half? A. I don't know.

(Arthur T. Leon—Cross.)

093

x Q. 260. Don't you know, as a matter of fact, that it has been very largely sold for the sum of ninety-eight cents in retail stores? A. Some have sold it at that price. It is customary to put on a list price on every book. Publishers give a discount from the list price, and the trade sells it at whatever price they see fit, except in cases of net books, where they sell them exactly at the publisher's price.

5094

x Q. 261. Your list prices which you have given have not then been generally maintained? A. In the small cities, I think they have.

x Q. 262. Have you published any better or more expensive or higher list price books than the book of the style filed as an exhibit with the bill? A. We have.

x Q. 263. Have you any specimen copies of it? A. I think we have.

5095

x Q. 264. In what way did they differ from this one? A. They were printed on thin paper, red and gold edges, leather binding and index.

x Q. 265. When was that edition issued? A. I think sometime in 1909 or 1910. I don't remember which.

5096

x Q. 266. I show you an advertisement which has been offered in evidence as a part of Complainant's Exhibit, "Defendant's Advertisement," this one being one bearing the name of O'Neill-Adams Company, who were one of the concerns which you say suggested that you change the name of your book from the Students' New Century Dictionary to Webster's New Century Dictionary, and I ask you if you ever saw that or any similar advertisement (handing)? A. I saw this advertisement but it was not prepared by us.

(*Arthur T. Leon—Cross.*)

5097

x Q. 267. This advertisement uses the descriptive phrase, "Used by the highest authorities here and abroad." Who are the highest authorities there referred to? A. I am not responsible for any advertisement of the trade.

x Q. 268. Do you know that——. A. I don't know anything about it.

x Q. 269. Do you know that your book is used by the highest authorities here and abroad? A. I am not responsible; for that reason I don't know anything about it. 5098

x Q. 270. I also see in this advertisement the descriptive phrase, "Greatest offer of a recognized work ever known."

MR. CARROLL: I object to all this line of questioning on the ground that it is incompetent, irrelevant and immaterial, this witness having already several times testified that he had no connection with or control over the advertising of various customers of his in the trade. 5099

MR. HALE: The defendant is responsible for the natural and probable consequences of placing a deceptive book in the hands of its customers for retail trade.

MR. CARROLL: In answer to this unnecessary statement by counsel for Complainant, I wish to say that the defendant is not responsible for advertisements independently prepared and independently inserted in newspapers or other mediums by customers who have purchased the book outright from this defendant, the contents of such advertisements having in no way been suggested by this defendant. 5100

5101

(Arthur T. Leon—Cross.)

MR. HALE: If the defendant will produce its advertising register showing the matter which it sent to its retail customers, its responsibility for a large part of the contents of these advertisements will appear. The identity between language used in different advertisements of widely separated concerns is certainly evidence of a common origin; and defendant has the means of making the proofs which have been called for, but refused.

5102

x Q. 271. (Continuing) Did the phrase, "a recognized work" occur in any of the advertising matter issued by the defendant? A. Not that I know of.

x Q. 272. Well, do you know whether it did, or it did not? A. No; I think so. If it is not in the circular, it did not appear.

5103

x Q. 273. This same advertisement contains the words, "Climax of a stupendous deal with publishers." Was there at or about that time a stupendous deal between Cupples & Leon Company and O'Neill-Adams Company?

MR. CARROLL: I object to that as incompetent, irrelevant and immaterial.

A. I refuse to answer.

5104

x Q. 274. In the paragraph marked 24 of Defendant's answer appears the statement, "Defendant denies that in the publication of said dictionary under the title Webster's New Century Dictionary, it omitted the form of copyright notice which contained the date 1904, and substituted in lieu thereof a new copyright notice bearing the date 1911." I show you a copy of the Crown Dictionary, which is an exhibit in this case.

(*Arthur T. Leon—Cross.*)

5105

and call your attention to the fact that it bears the single copyright notice, "Copyright 1904 by Louis Klopsch, New York;" is that correct? A. Yes.

x Q. 275. I show you a copy of the volume filed as an exhibit with the bill,—of your dictionary, Webster's New Century Dictionary, printed from the plates of the Crown Dictionary, as testified to by you, bearing the single copyright notice, "Copyright 1911 by Cupples & Leon Company;" is that correct? 5106

MR. CARROLL: I object to that as irrelevant and immaterial, and on the ground that the book speaks best for itself; on the further ground that this witness has already testified that the copyright notices, if omitted from that book, were omitted by mistake.

x Q. 276. The statement in the bill which the answer as above quoted denies was therefore true, as to this edition of your book? A. I told you, some copies—the printer omitted the copyright on some copies, and I don't think even the whole edition went out with that single copyright notice in, but we had a new title page printed as soon as it was noticed, and corrected. 5107

x Q. 277. The statement of the bill, however, was correct as to this book? A. As to that particular one volume, yes. 5108

x Q. 278. And there was more than one volume? A. How many, I don't know; but as soon as we noticed it we had a correction made and we gave the printer Hail Columbia for it.

x Q. 279. Who was the printer? A. I don't remember which one printed that.

(*Arthur T. Leon—Cross.*)

5109

x Q. 280. Well, what was the name of the printer? A. Well, we have several people printing that dictionary.

x Q. 281. Name a few who might have printed this book? A. Van Ries Press, Monroe or Caxton Press. I think it was Van Ries. I am not sure.

x Q. 282. And when was it that you gave the printer Hail Columbia, as you term it? A. When we first noticed it.

5110

x Q. 283. And that was when? A. Shortly after we got some books in.

x Q. 284. As a matter of fact, wasn't it after the complainant had called your attention to that fact? A. I don't remember.

x Q. 285. Well, what is your best information and belief? A. I wasn't here at that time, shortly after; so I don't remember whether it was before or afterwards.

5111

x Q. 286. Was it before or after you went to Europe? A. I could not remember.

x Q. 287. In the twenty-fifth paragraph of defendant's answer I find that the defendants "have at all times indicated on title pages on the cover of the dictionary and in advertisements the true origin and identity of said dictionary." Please point out in any of the exhibit volumes of your dictionary the matter referred to by the statements quoted. In other words, I want to

5112

know in what manner and by what words you indicated the true origin and identity of your dictionary? A. On the title page of the dictionary, "based upon the unabridged dictionary of Noah Webster L. L. B. New York, Cupples & Leon Company." On the back of the book, "Cupples & Leon Company."

(Arthur T. Leon—Cross.)

5113

MR. CARROLL: That was on the outside back cover.

THE WITNESS: On the outside back cover.

x Q. 288. And that is the only matter or language to which that averment of your answer relates. Is that correct? A. Yes, sir.

x Q. 289. And you changed the name of your dictionary from "Crown" or "Students" to "Webster" upon the strength of that statement appearing upon the title page, "based upon the unabridged dictionary of Noah Webster"? A. Yes, sir. 5114

x Q. 290. And at that time you did not know whether that statement was true or false? A. It was on the title page.

x Q. 291. And that is all you knew about it? A. We naturally supposed it to be correct.

x Q. 292. And that is all you knew about it? A. We naturally supposed it to be correct. 5115

x Q. 293. And that is all you knew about it at the time? A. I answered that question several times.

x Q. 294. You haven't answered the question at all. You have stated you supposed that to be correct. Did you have any other information than what appeared upon the title page at that time? A. Not at that time, no.

x Q. 295. And you made no further investigation at that time? A. No, sir. 5116

x Q. 296. Have you heard from any one since that time that that statement is not true? A. No.

x Q. 297. Neither directly or indirectly? A. No, sir.

x Q. 298. Have you any reason whatever of any kind to suppose that that statement is not true? A. I have not.

5117

(Arthur T. Leon—Cross.)

5118

x Q. 299. In this same twenty-fifth paragraph of your answer you also say that in pursuit of your purpose to distinguish your dictionary from those of the complainant, that, "defendants, before the institution of this suit against it by the Merriam Company caused to be inserted in the title page in such dictionary the following language, to wit: 'This dictionary is not published by the original publishers of Webster's dictionaries or by their successors.'" The answer does not state the date of that impression. However, that impression was made on or about November 2nd, as you have heretofore testified? A. Yes.

x Q. 300. Which was seven days prior to the filing of the bill in this case; is that correct? A. If the bill was filed on the 9th, I suppose that was seven days before the second.

5119

MR. CARROLL: The 2nd was seven days before the 9th.

THE WITNESS: Yes.

x Q. 301. You stated on your direct examination that when you made this change of title and adopted the name Webster's as descriptive of your dictionary, that you believed that the name Webster was absolutely open to the public? A. Yes, sir.

5120

x Q. 302. Just what did you mean by that phrase? A. Anybody who has a dictionary based upon Noah Webster's dictionary, could call it Webster's dictionary.

x Q. 303. Suppose a dictionary was not in fact based upon any dictionary by Noah Webster. Do you still maintain the right to use the name Webster's in the title of such a dictionary?

(*Arthur T. Leon—Cross.*)

512

MR. CARROLL: I object to that as incompetent, irrelevant and immaterial.

A. I don't know. I suppose that is a question of law.

x Q. 304. Well, did your belief at that time extend as far as that?

MR. CARROLL: I object to that as incompetent, irrelevant and immaterial.

5122

A. I refuse to answer.

x Q. 305. Did you believe at that time that you were entitled to use the word Webster in the title of your dictionary regardless of whether it was or was not based upon any dictionary of Noah Webster?

MR. CARROLL: I object to that as incompetent, irrelevant and immaterial, and on the ground that this witness has testified from the beginning that he believed and still believes it was based upon Webster's dictionary.

5123

A. I refuse to answer.

x Q. 306. Did the statements which you saw in the Publishers' Weekly, referring to the outcome of the Ogilvie litigation, have anything to do with the adoption of the name Webster in the title pages of the dictionary? A. Nothing whatever.

5124

x Q. 307. You have referred to a letter which the complainant sent to Stewart & Company of Baltimore, complaining of their circulation of the Webster's New Century Dictionary published by defendants. At that time none of the dictionaries handled by Stewart & Company bore the warning words which were inserted in dictionaries on and after November 2d, 1911? A. No, sir.

5125

(Arthur T. Leon—Cross.)

x Q. 308. You have stated that you told the Merriam Company in an interview shortly before this suit was begun that you had no desire or purpose in violating their legal rights. At that time you intended, however, to use the name Webster so far as the law would permit you to do so; is that correct?

5126

MR. CARROLL: I object to that as incorrectly summarizing his testimony.

A. Absolutely.

x Q. 309. And who determined what your own legal rights in the premises were—yourself or your attorneys? A. Yes, sir.

x Q. 310. Yourself and your attorneys? A. Yes, sir.

5127

x Q. 311. After this interview with the complainant company, you say you consulted your counsel. Did you tell your counsel at that time that your book was based upon the Webster's Unabridged Dictionary of 1847, and request their advice upon that assumption? A. I showed them our dictionary, and asked their advice upon the publication of our dictionary.

x Q. 312. Did you tell your counsel at any time that there was doubt as to whether in fact your book was in truth based upon any edition of Webster's dictionary? A. No, sir.

5128

x Q. 313. You have spoken of competition with other books which required you to sell an edition of your book at a low or reduced price. What was the competing book there referred to? A. Several.

x Q. 314. Name them? A. Syndicate Publishing Company's, Winston's book, the Merriam book, and several others I cannot think of.

(*Arthur T. Leon—Cross.*)

5129

x Q. 315. You have stated that Laird & Lee's dictionaries have been approved for school use in certain States which you named. How do you know that fact? A. In my travels, when I visited the book trade of those States and wanted to sell our book, they told me they could not buy it for the reason that Laird & Lee's have been adopted and that they had to handle this book.

x Q. 316. And is that all you know about that subject? A. Mr. Lee has told me that his book has been introduced in the schools in those various States.

5130

x Q. 317. Is that all you know upon that subject. A. I think I saw—in fact, I am positive that I saw a book which is gotten out by the Chicago and Illinois schools—that is, they have all the books that are adopted in the schools—that the Laird & Lee book was mentioned.

x Q. 318. And is that all you know upon that subject? A. I think so.

5131

x Q. 319. What was the date of those several adoptions or supposed adoptions? A. I don't know.

x Q. 320. Do you know whether they still subsist or have been since rescinded? A. That I don't know; but I think they still exist.

MR. HALE: The objection to the direct questions and the testimony as to these adoptions is again renewed, and motion is made to strike out the answers upon the ground that the witness has fully shown same to be mere hearsay, and not facts within his knowledge.

5132

x Q. 321. Is the information which you have testified to in regard to the use of Laird & Lee's

5133

(Arthur T. Leon—Cross.)

books in certain named cities the same as that to which you have testified as to states? A. Yes, sir.

MR. HALE: The same objection and motion is made to that part of this witness's deposition.

5134

x Q. 322. You have referred to a list of dictionaries using the name Webster in their titles, which were not published by the Merriam Company. Have you any knowledge or information as to the fact that some of these dictionaries are the same books under different titles?

MR. CARROLL: Objected to as assuming a state of facts not proven.

A. I absolutely know that those different dictionaries are printed from different plates.

5135

x Q. 323. How about the literary contents? Don't you know that some dictionaries named have the same identical literary contents? A. I do not.

x Q. 324. Don't you know that some of the Laird & Lee dictionaries referred to as "common school edition," "high school edition," and so forth, are the same identical books, merely printed in a different size; but the literary contents being identical? A. I do not.

5136

x Q. 325. You don't deny that this is a fact, though? A. I do not.

x Q. 326. You simply don't know? A. I never examined them close enough for that. I have seen all the books.

x Q. 327. Can you quote the title pages and all the inscriptions upon the various dictionaries named? A. No.

(Arthur T. Leon—Cross.)

5137

x Q. 328. Do you know what connection or relation there is between the several dictionaries named, and any dictionary of Noah Webster? A. I don't know anything about it.

x Q. 329. Do you know that some of the dictionaries named are in litigation in regard to the use of the name Webster thereon? A. I understood the Syndicate is.

x Q. 330. How about the Saalfeld Publishing Company's dictionaries? A. I understand that litigation was settled.

5138

x Q. 331. You know there had been a litigation for some years? A. Yes, I so understood.

x Q. 332. You don't know, then, that that litigation is still pending? A. No.

x Q. 333. Also the dictionaries named are dictionaries of the smaller class, as small as or smaller than your so-called Webster's New Century Dictionary? A. Yes, sir.

5139

x Q. 334. You have referred to several Webster's Unabridged Dictionaries published about or since the year 1890 by publishers other than Merriam. Were those dictionaries photographic reprints of the 1847 edition? A. I don't know.

x Q. 335. Or copyright editions? A. I don't know.

x Q. 336. What do you know about that? A. I don't know anything about that except I have seen the books.

x Q. 337. Have you ever sold them? A. Some years ago I have.

5140

x Q. 338. At what price did you sell them? A. Different prices.

x Q. 339. What was the range of prices? A. Well, I think from fifty cents up to a dollar and sixty-five cents.

(*Arthur T. Leon—Cross.*)

5141

x Q. 340. For the large unabridged dictionary?

A. Yes.

x Q. 341. Did you ever sell any for less than fifty cents? A. No, I think not.

x Q. 342. What is your best information and recollection? A. No.

x Q. 343. Never less than fifty cents? A. No, I don't think so.

5142 x Q. 344. Did you ever sell a job of them at bargain prices? A. Yes; I have sold an edition of the Merriam Company's which I bought at an auction sale for a cheap price. Not less than fifty cents, however.

x Q. 345. I am referring to the large dictionaries that you referred to, printed or published by concerns other than Merriam. A. No.

5143 x Q. 346. You have spoken of a dictionary published by the Monarch Publishing Company. Have you any knowledge or information as to the title of that dictionary? A. No, I don't remember it.

x Q. 347. Don't you know that it was one of the Saalfeld Dictionaries, published under another title? A. No, I don't.

x Q. 348. Do you know that Saalfeld publishes his large dictionary under several different titles?

MR. CARROLL: I object to that as incompetent, and immaterial.

5144

A. Yes, I have read two titles, one for the trade and one for the subscription trade.

x Q. 349. Have you ever heard of any other titles of that book.

MR. CARROLL: Same objection.

(Arthur T. Leon—Cross.)

5145

A. I just answered that; two titles.

x Q. 350. I say, have you ever heard of any other titles of that book? A. No.

x Q. 351. You don't know that is published under six different titles? A. No, I do not.

x Q. 352. Are all your dictionaries sold outright to your customers, or are some of them handled on consignment? A. No; none of them handled on consignment.

5146

x Q. 353. Did you buy any complete books or sheet stock from Louis Klopsch when you bought the plates of your dictionary from him? A. No, sir.

x Q. 354. All the dictionaries then, which you issued, were printed yourselves from the plates which you purchased? A. Yes, sir.

x Q. 355. Has the defendant any objection to incorporating in the warning notice which it now uses upon its book and in its advertisements, as stated by you, a statement that your dictionary is based upon the 1847 edition of Webster's Unabridged Dictionary?

5147

MR. CARROLL: I object to that as irrelevant and immaterial.

A. I don't know why we should put that notice in, as we have already put in the notice, "This dictionary is not published by the original publishers of Webster's Dictionaries or their successors"; and we have done this to distinguish our book from the Merriam book, as we want to give them every benefit or doubt, and the only purpose such a notice could serve would be to distinguish books of different publishers, and therefore it would be superfluous. Furthermore, it don't seem to be absolutely true, for the simple reason that all

5148

5149

(Arthur T. Leon—Cross.)

matter taken and used in small dictionaries is taken alike from editions of Webster's dictionary of 1828, 1841, 1847 and 1864, and the matter contained in the small dictionaries is practically the same, that is, the matter contained in all these four dictionaries is practically the same as embodied in the small dictionaries. Our dictionary would contain as much matter of the 1828 and 1841 and 1864 editions, as of the 1847 edition.

5150

x Q. 356. Don't you know that Webster's dictionary of 1864 was protected by copyright at the time your dictionary was first published in 1904? A. Well, evidently, 1904—forty-two years would make in 1906.

x Q. 357. You don't seem to think, then, your dictionary contains matter taken from the copyright edition of 1864? A. Well, subsequent editions probably did.

5151

x Q. 358. You mean the few stray words that you added? A. We didn't publish it since the dictionary in 1906. For that reason any words which we took since we published Webster's New Century Dictionary might have come from the 1864 edition just as well.

5152

x Q. 359. Have you any reason to believe that anything contained in your dictionary as published in the year 1911 contained any matter taken from the 1864 edition of Webster's dictionary? A. We took all dictionaries that were open, and how many words were taken out of them I don't know—out of the 1864 edition, I don't know.

x Q. 360. As a matter of fact, have there been as many as fifty words added to the plates of the Crown dictionary? A. I don't remember.

x Q. 361. You can ascertain that fact, can you not? A. If the records are still there. It might be.

(*Arthur T. Leon—Re-Direct.*)

5153

x Q. 362. And the words that were added were new words which have come into the language in recent years, were they not? A. Not altogether.

x Q. 363. Name some that were not such? A. I don't remember exactly which ones.

x Q. 364. Can you name any?

MR. CARROLL: I object to that on the ground that this witness has already testified that he did not have particular control of the editorial part of the business. 5154

MR. HALE: I will answer that. The witness has assumed to state in general terms certain changes which he claims might have been made; and the desire is to obtain such knowledge as he has upon the subject, and to ascertain the limits of his knowledge.

A. I don't remember.

x Q. 365. Did you go to Chicago for the purpose of getting into communication with Mr. Roe in connection with this dictionary litigation? A. I did. 5155

x Q. 366. Did you send an attorney to Chicago for the same purpose, or employ one there? A. I did not.

RE-DIRECT EXAMINATION by Mr. Carroll:

Re-D. Q. 367. When you went to Chicago for the purpose of seeing Mr. Roe, did you find Mr. Roe? A. No, sir. 5156

Re-D. Q. 368. Do you remember ever having seen Mr. Roe within the last five years? A. No, sir.

Re-D. Q. 369. What would your so called advertising register contain with reference to Webster's dictionaries in addition to the matter con-

5157

(Arthur T. Leon—Re-Direct.)

tained in the catalogue which is an exhibit in this case?

MR. HALE: I object to that as incompetent, irrelevant and immaterial and as secondary, it appearing that the defendant has in its possession the advertising register in question, and defendant has been called upon to produce the same.

5158

A. I don't remember any.

Re-D Q. 370. What advertising did you do in connection with your Webster's dictionary? A. Not any outside of circulars and catalogues.

Re-D Q. 371. One of the catalogues which you used is that already in evidence, isn't it? A. Yes.

5159

Re-D Q. 372. The circulars which you referred to—what further matter did they contain except that in this catalogue? A. Nothing.

Re-D Q. 373. Did you have any control whatever over the advertising of your customers? A. No, sir.

Re-D Q. 374. Did you supply them with any material for inserting a trade advertising except that which is contained in this catalogue and your catalogue? A. No, sir.

5160

Re-D Q. 375. What information have you concerning the date of the manufacture of the plates of the Crown Dictionary which you purchased? A. I understood they were manufactured in 1904.

Re-D Q. 376. Have you had these plates examined by plate makers? A. Yes.

Re-D Q. 377. What have they told you about them?

MR. HALE: I object to that as calling for hearsay, and as irrelevant and immaterial.

(*Arthur T. Leon—Re-Direct.*)

5161

A. Well, a plate maker came into our office and he said he made the plates of the Crown dictionary and wanted to know if he could do some work for us.

Re-D Q. 378. Do you remember the name of the plate maker? A. No, I don't remember. He was in Cleveland and afterwards moved to Jersey.

Re-D Q. 379. Do you know where he is now? A. No, I do not.

5162

Re-D Q. 380. Did he tell you he made the plates of the Crown Dictionary in 1904?

MR. HALE: I object to that as calling for hearsay and as no evidence of the fact.

A. Yes.

Re-D Q. 381. In your cross examination you have testified that in the year 1907, you changed the name of your dictionary from "Students New Century Dictionary" to Webster's New Century Dictionary." Did you find it more easy or more difficult to sell the dictionary under the name of "Webster's New Century?"

5163

MR. HALE: I object to that as incompetent, irrelevant and immaterial, as calling for a conclusion of the witness, and because all the circumstances attending the sale of the books under the several titles have not been shown or even assumed in the question.

5164

A. I found it more hard to sell it under the name of Webster's, probably on account of there were so many Webster's dictionaries in the market, and competition was keener.

Re D Q. 382. Why didn't you change the name

5165

(Arthur T. Leon—Re-Direct.)

of the book again to "Students New Century Dictionary" when you discovered that it was a disadvantage to call it Webster's?

MR. HALE: I object to that as irrelevant and immaterial.

5166

A. Well, it took us two or three years to find out that our sales were falling off, and we were just about to change that when the enormous advertising of the Syndicate Publishing Company stimulated the sale of Webster's dictionary, by which all publishers of Webster's dictionary profited.

Re-D Q. 383. When you returned from Springfield in October, 1911, and conferred with your attorneys, and were told about the details of the Ogilvie decision, did your attorneys tell you that your case was exactly like the Ogilvie case?

5167

MR. HALE: I object to that as irrelevant and immaterial.

A. No, they told us that our case was different from the Ogilvie case.

Re-D. Q. 384. In what way was it different?

5168

A. Inasmuch as Ogilvie was not satisfied with using the word "Webster", but had put in other words which might deceive the public into buying books which have been established by the Merriam Company, and notwithstanding that, our attorneys did not think it necessary to put in the notice in the book, "This dictionary is not published by the original publishers of Webster's dictionary or their successors," my partner and I decided to give the Merriams the benefit of every doubt and insert the notice in this dictionary.

Re-D. Q. 385. Did you have at that time any expectations that the Merriams would bring suit against you?

(*Arthur T. Leon—Re-Cross.*)

5169

MR. HALE: I object to that as incompetent, irrelevant and immaterial and as a repetition of a question already asked on direct examination.

A. No sir.

Re-D. Q. 386. Did the Crown dictionary which you purchased from Louis Klopsch form a part of another work which was being published by the Christian Herald?

5170

MR. HALE: I object to that as irrelevant and immaterial.

A. I think so.

Re-D. Q. 387. Do you know what that work was called? A. The Crown Encyclopedia.

Re-D. Q. 388. Do you know whether or not it was for that reason that Louis Klopsch didn't want you to continue calling the book the Crown Dictionary? A. I think so.

5171

RE-CROSS EXAMINATION by Mr. Hale:

Re-x Q. 389. When you went to Chicago you located Mr. Roe as being in the employ of Laird & Lee, did you not? A. No; I understand that he was not in the employ of Laird & Lee.

Re-x Q. 390. What did you ascertain in regard to his employment and location? A. I understood he only worked for them at times.

5172

Re-x Q. 391. You got into communication with Mr. Lee of that firm? A. I did.

Re-x Q. 392. You have referred to a conference with your attorneys shortly before this suit was brought. Did your attorneys tell you that the Supreme Court in the Singer case has laid down the principle that the use of the name which has

(*Arthur T. Leon—Re-Cross.*)

5173

acquired a secondary meaning without an accompanying adequate distinguishing statement in itself constitutes an artifice calculated to deceive?

A. I don't think so.

Re-x Q. 393. Before this suit was brought had you not had a conference with complainant's counsel? A. I did.

5174

Re-x Q. 394. And was not the matter then discussed as to ways of avoiding litigation? A. Counsel told us that we have to drop the name Webster. We said we would if our attorneys advised us that it was necessary.

5175

Re-x Q. 395. You knew then, that before you went to Europe, that the matter was in the hands of complainant's Counsel? A. I did not know it was in the hands of the counsel, except that in that interview with the Merriams they thought that we had better consult with their counsel as they did not want to do anything unless advised by their counsel.

Re-x Q. 396. You have stated that the Crown dictionary was published as part of a work called the Crown Encyclopedia? A. It was.

Re-x Q. 397. Also published separately as the Crown dictionary, was it not? A. I don't know.

5176

Re-x Q. 398. It has been so testified in this case and you have no reason to doubt it, have you? A. It might have sold. I don't know that it was published separately. It might have been sold separately.

Re-x Q. 399. I presume Mr. Roe knows better than any other person the source of the materials used in the compilation of the Crown dictionary by him? A. I don't know if he knows better than any other person. Other language experts probably can dissect the dictionary.

(*Arthur T. Leon—Re-Cross.*)

5177

Re-x Q. 400. Is it your idea that the dictionary is founded upon the prior dictionary with which it is most nearly identical? A. I don't know what you mean by that.

Re-x Q. 401. Do you mean to say its source and origin can be determined by comparison with existing books at the time it was compiled? A. Probably can—naturally. Any dictionary can be.

Re-x Q. 402. You mean by that that its source and origin will be determined by the similarities which occur between it and the dictionaries with which it is compared? A. Between the definitions—between the similarity of the definitions of the dictionaries.

5178

Re-x Q. 403. I presume there is a general similarity between corrected definitions of the same words in different dictionaries. There is no doubt about that, is there? A. Different lexicographers use different definitions.

5179

Re-x Q. 404. Is there any commercial or business reason for objecting to specifying by dates the editions of Webster's dictionary upon which your book is founded if it is founded upon any Webster's dictionary? A. What do you mean by that?

Re-x Q. 405. I mean, from your standpoint as a business man and publisher? A. You mean the date of the dictionary?

Re-x Q. 406. The editions are usually specified by the dates, the year in which they appear? A. What was that question, now?

5180

Re-x Q. 407 (repeated as follows): Is there any commercial or business reason for objecting to specifying by dates the edition of Webster's dictionary upon which your book is founded, if it is

5181

(Arthur T. Leon—*Re-Cross.*)

founded upon any Webster's dictionary? A. No, I think not. Of course, the general public, in buying the dictionary would naturally suppose that the main part of the dictionary would be from forty to fifty to a hundred years old, and if it had been upon the title page, "based upon the 1847 edition of Noah Webster, but revised and brought up to date by the most eminent English and American authorities," it would rather add to the sale than hurt it, provided the public got the book they wanted.

5182

By Mr. Carroll:

Re-x Q. 408. It is alleged in the twenty-fifth paragraph of defendant's answer that in the publication of your dictionary under the title of Webster's New Century Dictionary, you have at all times indicated on title pages and on the cover of the dictionary the true origin and identity of the dictionary. Is that a correct statement? A. It is correct with one exception, that we published one edition in which we left our name off the cover for the reason that we wanted to reduce the cost of manufacture in order to meet competition, which was very keen on other similar dictionaries.

5183

Re-x Q. 409. Did all other editions of the book except that one have your name on the back of the outside cover? A. Previous to that and after that, and it is customary with all publishers to put their name on the back of books.

5184

By Mr. Hale:

Re-x Q. 410. What is the cost per volume of the publication of the book, in the form filed with the bills?

MR. CARROLL: I object to that.

(Herman Schultz—Direct.)

5185

A. I refuse to answer.

Re-x Q. 411. I will ask you the question—in which the name is left off for the reasons stated by you? A. It reduces the cost to leave the name off, because that is gold leaf, and it costs money.

Re-x Q. 412. I will repeat the question: What is the cost of the manufacture of that edition of the book? A. I will refuse to answer.

DEPOSITION CLOSED.

5186

Signature of this witness waived by consent.

IT IS HEREBY STIPULATED by and between the counsel for the respective parties that the signatures of witnesses to all depositions taken stenographically be and the same are hereby waived.

Adjourned to June 11th, 1912, at 12 o'clock M.

5187

NEW YORK, June 11th, 1912.
12:00 M.

Met pursuant to adjournment.

Present: Counsel as before.

HERMAN SCHULTZ, a witness called by and on behalf of the defendants, having been first duly cautioned and sworn, testified as follows: 5188

DIRECT EXAMINATION by Mr. Carroll:

Q. 1. What is your age? A. My age is fifty-three.

(*Herman Schultz—Direct.*)

5189

Q. 2. Residence? A. Sixty-four Rutland Road, Flatbush.

Q. 3. What is your occupation? A. Salesman.

Q. 4. Have you, at some period of your life, been engaged in the securing of subscriptions for magazines? A. Yes.

5190 Q. 5. At about what period was that? A. Oh, for about eighteen or twenty years. I was employed for thirty-five years by the Orange Judd Company. They are now on Fourth Avenue, Springfield, Mass.

Q. 6. Did you in the course of this business distribute premiums of various kinds? A. Yes; used to purchase them by the thousands and give them away as premiums.

Q. 7. Among those premiums were there Webster's dictionaries? A. Yes.

5191 Q. 8. Do you remember any of the publishers of those Webster's dictionaries? A. No, I don't remember the publishers—I don't remember, sir. I might say that I remember the first dictionaries were offered way back in the eighties, by the concern known as the World Publishing Company of Nassau Steet at that time.

Q. 9. Were those Webster's dictionaries? A. They were Webster's dictionaries; yes, sir.

Q. 10. And that was back in the eighties? A. Yes; back in the eighties.

5192 Q. 11. Can you fix the date any more exactly? A. No, I could not.

Q. 12. Was it 1885, do you think? A. I could not think—I know it was in the eighties. I could not recall it now positively.

Q. 13. Did you distribute many of those dictionaries? A. Yes, sir, thousands of them.

(Herman Schultz—Direct.)

5193

Q. 14. Have you recently made an investigation of the public understanding of the word "Webster"? A. Yes, sir.

Q. 15. What was your method of procedure in that investigation? A. I visited eight cities.

Q. 16. What cities were they? A. Wilmington, Delaware; Philadelphia, Trenton, New Brunswick, Morristown, Brooklyn, Jersey City and Newark.

5194

Q. 17. What was your method of investigation in those towns? A. I followed the instructions. I made a systematic canvass from store to store. When I was not turned down I got their replies to my questions.

Q. 18. What people did you approach? A. Storekeepers—general storekeepers, lawyers and doctors, as it may be.

Q. 19. How did you select the persons whom you questioned? A. Personally; and in the City of Brooklyn and in Trenton and in Newark, to expedite matters, I had a brother introduce me to some of his acquaintances—not all—vouching that I was all right, and to answer the questions to the best of their knowledge as I might ask them.

5195

Q. 20. Did you know any of these people beforehand? A. Never saw any of these people beforehand.

Q. 21. Did you indicate in any way before you examined them what the purpose of your examination was? A. No, sir.

5196

Q. 22. Did you in any way indicate to them what answers you expected to get to the questions? A. No, sir.

Q. 23. Did you make a complete list of all the persons examined? A. Yes.

5197

(Herman Schultz—Direct.)

Q. 24. How did you make that list? A. On the cards issued for the purpose, publishers' cards.

Q. 25. What do you mean by "cards issued for the purpose"? A. Explanation pads.

Q. 26. What were those pads? A. On which there were lines to insert the answer to those questions that were asked.

Q. 27. What did you write on those pads?

5198

MR. HALE: Just one moment. This question and this entire line of examination is objected to as incompetent, irrelevant and immaterial.

A. I wrote down the replies the parties made.

Q. 28. Did you write the name of each person?

A. The name of each person questioned, yes, sir.

Q. 29. Did you get the name of each person questioned? A. Yes.

5199

Q. 30. Did you write down the occupation of each person? A. Yes.

Q. 31. Did you also write down immediately after the answers were given the answers which each one of the persons questioned made? A. Yes.

Q. 32. Did you before going out on this tour of investigation receive a letter of instructions?

A. Yes, sir.

Q. 33. I show you a letter. Is that such a letter? A. That is the letter; yes.

5200

MR. CARROLL: I will offer that in evidence.

MR. HALE: The letter is objected to as incompetent, irrelevant and immaterial, as relating to a transaction between defendant's counsel and defendant's agent, and in no manner binding upon the complainant.

(*Herman Schultz—Direct.*)

5201

(Said letter is set forth in full as follows).

“GOULD & WILKIE,
COUNSELLORS AT LAW,
No. 2 Wall Street,
New York.

May 29th, 1912.

MR. H. SCHULTZ,
64 Rutland Road,
Brooklyn, N. Y.

5202

DEAR SIR:

In connection with your investigation for the Syndicate Publishing Company please remember that your testimony can only be of value to the Court in determining what the term ‘Webster’s Dictionary’ means to the general public, if you obtain your special knowledge and information in an absolutely fair and impartial manner. Be careful to ask the questions which have been prepared for you exactly in the order indicated and in the same exact words in each case. If possible obtain the answers from persons picked at random in the various towns visited without explaining the purpose of the question. In other words, do not in any way suggest to them the kind of answer which you want them to make. If necessary you can say you are obtaining statistics concerning the popular understanding of the word ‘Webster.’ In each case write down at once the name, address and occupation of the person questioned and the answer to each question. Include in your record without exception the answers of all of the persons whom you question, as well as those who answer unfavorably as those who answer favorably.

5203

5204

5205

(Herman Schultz—Direct.)

In truth, your purpose is to collect accurate statistics for the Court as to the meaning which the general public attaches to the word 'Webster' in the title of a dictionary.

Very truly yours,

GOULD & WILKIE,
By Lauren Carroll."

5206

Q. 34. Did you follow the instructions set forth in this letter exactly? A. Yes, sir.

Q. 35. How many person did you interview in this investigation? A. I could not tell you how many I interviewed, but I can tell you how many answers I got.

Q. 36. How many out of those whom you interviewed consented to answer these questions? A. 316 in all.

5207

Q. 37. Did those 316 include everyone who consented to answer the questions? A. Everyone, yes.

Q. 38. Have you included among those 316 all those who might be considered unfavorable to the Syndicate Publishing Company as well as those who might be considered favorable? A. Just as I received the replies, the answers I recorded. There were no omissions.

5208

Q. 39. What were the questions which you asked these 316 persons?

MR. HALE: I object to the as incompetent, irrelevant and immaterial, and as not binding upon the complainant.

A. The first question: Do you know who is the publisher or who are the publishers of Webster's dictionaries?

(*Herman Schultz—Direct.*)

5209

2. When you hear or see the name Webster on a dictionary, does it indicate to you a dictionary gotten out by any particular publisher or at any particular place?

3. Do you know any city or cities where any Webster's dictionaries are published?

4. Do you know of any series of succeeding rewritings of Webster's dictionaries gotten out by any one publisher?

5210

5. Who do you think wrote the definitions and fixed the spelling of the words to be found in the Webster's dictionaries you have known about?

6. When do you think those definitions were written and that spelling fixed?

Q. 40. From your experience as a distributor of dictionaries and from our special experience in the recent investigation, will you state whether or not the general public knows who is the publisher or who are the publishers of Webster's dictionaries? A. Well, I found in my canvas —

5211

Q. 40. Just answer that question without reference to any record that you may have, first.

MR. HALE: I object to it upon the ground that the witness has not been qualified to answer such a question.

Q. 41. (Repeated as follows): From your experience as a distributor of dictionaries and from your special experience in this recent investigation, will you state whether or not the general public knows who is the publisher or who are the publishers of Webster's dictionaries? A. They don't know.

5212

Q. 42. Out of the persons whom you questioned, how many answered in the negative to the first question?

5213

(Herman Schultz—Direct.)

MR. HALE: I object to it as incompetent, irrelevant and immaterial and calling for a transaction had with an agent of defendant's not in the presence of the complainant, and not in any way binding upon the complainant, and also as calling for pure hearsay in a matter which is not part of the *res gestae* of any relevant act, fact or declaration.

5214

A. Three hundred.

Q. 43. What did the other sixteen answer? A. Question No. 1—Funk & Wagnall, Merriam, Lippincott, Appleton.

5215

Q. 44. From your experience as a distributor of dictionaries and from your experience in this recent special investigation, will you state whether or not the general public when they hear or see the name Webster on a dictionary, understand that it is a dictionary gotten out by any particular publisher or at any particular place? A. They don't know.

Q. 45. Out of the 316 persons whom you examined, how many answered the second question in the negative? A. Three hundred and four.

5216

Q. 46. From your experience as a distributor of dictionaries, and from your experience in this recent investigation, will you state whether or not the general public know any city or cities where any Webster's dictionaries are published? A. They do not.

Q. 47. Out of the 316 persons questioned by you, how many answered question No. 3 in the negative? A. 277.

(It is stipulated that this entire line of examination, including questions as to

(Herman Schultz—Direct.)

5217

questions asked by the witness and answers given by the persons interrogated, is all subject to the objection to the same as incompetent, irrelevant and immaterial, that it calls for hearsay and relates to transactions in no way binding upon the complainant, and is not part of the *res gestae* of any relevant act, fact or declaration; and this objection need not be repeated to any questions along this line.)

5218

Q. 48. What did the remainder, 29, answer to that question? A. In Connecticut, Ohio, New York, Philadelphia, Chicago, Boston, Springfield.

Q. 49. From your experience as a distributor of Webster's dictionaries, and from your experience in the recent investigation made by you, will you state whether or not the general public knows of any series of succeeding rewritings of Webster's dictionaries gotten out by any one publisher?

5219

MR. HALE: This question is specially objected to on the ground that the witness has not been duly qualified as an expert to answer or to give his opinion upon such subject.

A. No.

Q. 50. Out of the 316 persons questioned by you, how many answered question No. 4 in the negative? A. 308.

5220

Q. 51. From your experience as a distributor of Webster's dictionaries, and from your experience in this recent investigation, will you state what person or persons the general public thinks wrote the definitions and fixed the spelling of the

5221

(Herman Schultz—Direct.)

words to be found in the Webster's dictionaries, which they have known about? A. Ten years each; almost obsolete.

Q. 52. Now, wait a minute. That answer is not responsive. And I move that it be stricken from the record and the question be re-read.

5222

Q. 53. (Repeated as follows): From your experience as a distributor of Webster's dictionaries, and from your experience in this recent investigation, will you state what person or persons the general public thinks wrote the definitions and fixed the spelling of the words to be found in the Webster's dictionaries which they have known about?

MR. HALE: Complainant's Counsel inquires what papers the witness is consulting in making his answers to this line of examination.

5223

MR. CARROLL: The defendant's Counsel answers that they are papers which the witness has prepared, summarizing the results of his investigation, and containing statistics which he is unable to carry in his memory. He therefore has the paper for the purpose of refreshing his memory.

5224

MR. HALE: There is no objection to the witness so doing provided the cards upon which he embodied the immediate results of his investigation, and which these papers summarize are offered in evidence before the conclusion of his examination.

MR. CARROLL: Pursuant to this objection and request, Defendant's Counsel states that he will spread upon the record the cards.

(*Herman Schultz—Direct.*)

5225

Q. 54. (Repeated). A. Webster; Noah or Daniel Webster; Webster and others, don't know; indefinite.

Q. 55. Out of the 316 persons questioned by you, how many indicated by their answers to question No. 5 that they believed some person named Webster, either Daniel or Noah, had written the definitions and fixed the spelling of the words found in the Webster's dictionaries which they have known about? A. 185.

5226

Q. 56. How many indicated by their answers to question 5, that they thought Webster had had a large part to do with the writing of the definitions and the fixing of the spelling of the words found in the Webster's dictionary which they have known about? A. 35.

Q. 57. Are these thirty-five in addition to the 185 which you have already mentioned? A. Yes, sir.

5227

Q. 58. What did the rest of the persons examined by you answer to this question 5? A. 50 of them—50 additional answered "don't know," and the balance, 46, indefinite.

Q. 59. What do you mean by indefinite? A. All kinds of remarks. There was "students of rhetoric" and all that business; not any of them alike, but all different.

Q. 60. From your experience as a distributor of dictionaries and from your special examination recently made of the public understanding of the word "Webster," will you state when the general public thinks that the definitions in the Webster dictionaries they have known about were written and when the spelling was fixed? A. They did not know. 218 of the 316 answered "long ago;" six "recently;" and 15 "don't know."

5228

5229 *Exhibit: Produced by Witness Schultz.*

Q. 61. I show you 316 cards and ask you if those are the cards which you used in your special investigation recently made (handing a bundle of cards)? A. Yes, sir.

Q. 62. Are these the cards which you mentioned in your direct examination? A. Yes, sir.

Q. 63. Do they contain all of the answers of each one of the persons who would give you any answer to the questions? A. Yes.

5230 Q. 64. Did you in each case write down the whole of the answer without changing it in any way? A. Yes, sir.

MR. CARROLL: I offer the cards in evidence.

MR. HALE: The cards are objected to upon the grounds of the general objection above stated and reserved by stipulation.

(Marked in evidence "Defendants' Exhibit Copy of Cards furnished by witness Schultz, J. A. Exr., June 11, 1912.")

5231

The text of said cards is printed at this point by consent and is as follows:

The persons, their addresses, occupations and the answers which each gave to the question are as follows:

1. J. P. Gallagher, 141 Market Street, Wilmington, Del., Hats.

5232

Question 1. Funk & Wagnall.

Question 2. Chicago.

Question 3. Chicago.

Question 4. Almost obsolete.

Question 5. Noah Webster.

Question 6. Long ago.

Exhibit: Produced by Witness Schultz.

5233

2. Chas. Cover, 429 Malbourn Street, Brooklyn,
N. Y., Painter.

- Question 1. No.
- Question 2. No.
- Question 3. New York City.
- Question 4. Funk & Wagnall.
- Question 5. Webster.
- Question 6. Long ago.

3. J. H. Keeley, 455 48th Street, Brooklyn, N. Y.,
Builder. 5234

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. Funk & Wagnall.
- Question 5. Noah Webster and others.
- Question 6. 1840.

4. C. A. Barbier, 42 Clinton Street, Newark,
N. J., Law Book. 5235

- Question 1. Funk & Wagnall.
- Question 2. No.
- Question 3. New York.
- Question 4. No.
- Question 5. Several Authors.
- Question 6. About 1850.

5. J. Michaels, 18 Church Street, New Bruns-
wick, N. J., Millinery.

5236

- Question 1. No.
- Question 2. Funk & Wagnall.
- Question 3. New York.
- Question 4. No.
- Question 5. Presume Webster.
- Question 6. Long ago.

5237

Exhibit: Produced by Witness Schultz.

6. Wm. H. Hansen, 307 Hoyt Street, Brooklyn, N. Y., Druggist.

Question 1. No, think Funk & Wagnall.

Question 2. Don't know.

Question 3. No.

Question 4. No.

Question 5. Originated by Noah Webster.

Question 6. Most part of the book long ago.

5238

7. Irwin C. Blean, 13 Kent St., Trenton, N. J., Bookkeeper.

Question 1. G. & C. Merriam.

Question 2. G. & C. Merriam.

Question 3. Phila., N. Y., Mass.

Question 4. G. & C. Ed.

Question 5. Noah Webster.

Question 6. Change from time to time.

5239

8. Randolph Burgess, 583 Flatbush Ave., Brooklyn, N. Y., Real Estate.

Question 1. Merriam & Co.

Question 2. No have in my possession
National Press Assn.

Question 3. Not to my knowledge.

Question 4. No other exception on the
above.

Question 5. Always has been ascribed the
work of Dr. Webster.

5240

Question 6. Period of 40 or more years ago.

9. J. J. Prophy, 212 E. Hanover St., Trenton, N. J., Druggist.

Question 1. Merriam.

Question 2. No.

Question 3. Ohio & Mass.

Question 4. Dozens.

Exhibit: Produced by Witness Schultz.

5241

Question 5. Webster & others.

Question 6. Years ago.

10. N. Y. Vreeland, 2164 Boulevard, Jersey City, N. J., Banking Dept.

Question 1. No.

Question 2. Merriam & Co.

Question 3. Springfield, Mass.

Question 4. No.

Question 5. All sorts of claims.

5242

Question 6. Many years ago.

11. Saml. R. Baker, 251 Market Street, Newark, N. J., Printer.

Question 1. No.

Question 2. G. & C. Merriam of Conn.

Question 3. Conn.

Question 4. No.

Question 5. No end of authors, compilation.

5243

Question 6. Long ago.

12. Ezra Baldwin, 66 Rutland Road, Foster, Salesman, Brooklyn, N. Y.

Question 1. When I went to school, Merriam.

Question 2. Could not say, anyone can make the book.

Question 3. No.

Question 4. No.

5244

Question 5. Noah Webster.

Question 6. 75 to 100 years ago.

13. J. Frank Greene, 42 Rutland Road, Brooklyn, N. Y., Broker.

Question 1. G. C. Merriam, Springfield, Mass. Most anybody else, as I know others.

5245

Exhibit: Produced by Witness Schultz.

- Question 2. No.
- Question 3. Springfield and elsewhere.
- Question 4. Never heard of such a thing.
- Question 5. Noah Webster.
- Question 6. More than forty years ago
"originally."

14. Dr. Cornwall, 1218 Pacific St., Brooklyn,
N. Y., M. D.

5246

- Question 1. Merriam & Co.
- Question 2. Not necessarily.
- Question 3. Springfield, Mass.
- Question 4. No.
- Question 5. Noah Webster, from earlier
works.
- Question 6. About 1820.

15. Dr. Lippald, 197 St. Nicholas Ave., Dr.

5247

- Question 1. Lippincott's.
- Question 2. No.
- Question 3. Phila., Pa.
- Question 4. No.
- Question 5. Don't know.
- Question 6. Long ago.

16. Dr. B. Kahn, 194 Ross St., Brooklyn, N. Y.,
M. D.

5248

- Question 1. Appleton & Co.
- Question 2. No.
- Question 3. Phila., Pa.
- Question 4. No.
- Question 5. Johnson before Webster.
- Question 6. 1778.

Exhibit: Produced by Witness Schultz.

5249

18. Geo. J. Litterse, 52 Church St., New Brunswick, N. J., Hats.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. New York.

Question 5. No.

Question 6. Ten years ago.

19. Edward Powers, 586 Henry Street, Brooklyn, N. Y., Foreman Shipbuilder, Robin Dry Dock.

5250

Question 1. No.

Question 2. No.

Question 3. I suppose in N. Y.

Question 4. No.

Question 5. Webster, of course.

Question 6. I don't know.

20. J. W. Stewart, 22 Court Street, Brooklyn, N. Y., E. Railroad.

5251

Question 1. No.

Question 2. No.

Question 3. Phila., Pa.

Question 4. No.

Question 5. No one person.

Question 6. Changed from time to time.

21. H. B. Zimmerman, 44 Church St., New Brunswick, N. Y., Mfg. Hair Goods.

5252

Question 1. No.

Question 2. No.

Question 3. New York City.

Question 4. No.

Question 5. By different persons.

Question 6. Changes right along.

5253

Exhibit: Produced by Witness Schultz.

21. Sieg Baron, Trenton, N. J., Wholesale Liquors.

Question 1. No.

Question 2. No.

Question 3. New York City.

Question 4. No.

Question 5. No.

Question 6. Common usage.

5254

22. Emil Millke, 222 W. Hanover St., Trenton, N. J., Restaurant.

Question 1. No.

Question 2. Webster.

Question 3. Ohio.

Question 4. No.

Question 5. Webster & Professors.

Question 6. 1910.

5255

23. Chas. Drummond, 124 Temple Street, Trenton, N. J., Clothing Stock Clerk.

Question 1. No.

Question 2. No.

Question 3. Phila.

Question 4. No.

Question 5. Webster.

Question 6. Years ago.

5256

24. Edward McCann, 231 Lincoln Road, Brooklyn, N. Y., Asst. Supt.

Question 1. No.

Question 2. No.

Question 3. Boston, Mass.

Question 4. No.

Question 5. Webster.

Question 6. Long ago.

Exhibit: Produced by Witness Schultz.

5257

25. Wm. A. Muldoon, 832 Flatbush Ave., Brooklyn, N. Y., Dry Goods.

Question 1. No.

Question 2. No.

Question 3. New York. ,

Question 4. No.

Question 5. Webster compilation.

Question 6. Long ago.

26. Chas. J. Kreinbrink, 26 Court St., Brooklyn, N. Y., Architect. 5258

Question 1. No.

Question 2. No.

Question 3. Some published in New York.

Question 4. No.

Question 5. Daniel Webster.

Question 6. Long ago.

27. Fred Zimmerman, 501 Rodgers Ave., Brooklyn, N. Y., Druggist. 5259

Question 1. No.

Question 2. No.

Question 3. Imagine New York.

Question 4. No.

Question 5. Danl. Webster.

Question 6. Can't fix the year. Before my time.

28. John Giller, 122 So. 1st St., Brooklyn, N. Y., Clerk. 5260

Question 1. No.

Question 2. No.

Question 3. New York City.

Question 4. No.

Question 5. Webster.

Question 6. Long ago.

5261

Exhibit: Produced by Witness Schultz.

29. T. A. Kelly, 730 Flatbush Ave., Brooklyn,
N. Y., Real Estate.

Question 1. No.

Question 2. No.

Question 3. New York City.

Question 4. No.

Question 5. Daniel Webster.

Question 6. Many years ago.

5262

30. H. S. C. Folk, 921 Market St., Wilmington,
Del., Sperry Hutchinson.

Question 1. No.

Question 2. No.

Question 3. New York.

Question 4. No.

Question 5. Noah Webster.

Question 6. Some time ago.

5263

31. F. E. Boeckler, 94 Emmett St., Newark, N.
J., Restaurant.

Question 1. No.

Question 2. No.

Question 3. New York.

Question 4. No.

Question 5. Webster.

Question 6. Many years ago.

32. W. V. Hann, 122 Pennsylvania Ave., New-
ark, N. J., Salesman.

5264

Question 1. No.

Question 2. No.

Question 3. New York.

Question 4. No.

Question 5. Dan'l Webster.

Question 6. Long before my time.

Exhibit: Produced by Witness Schultz.

5265

33. Thos H. Irwin, 317 Can Street, Trenton, N. J., Clerk.

Question 1. Several. No.

Question 2. No.

Question 3. Phila.

Question 4. Last two or three years by several.

Question 5. Worlds Lexicographer.

Question 6. Long ago.

5266

34. F. W. Reynolds, 460 So. Olden, Trenton, N. J., Clerk Bell Telephone.

Question 1. No.

Question 2. Chicago.

Question 3. No.

Question 4. No.

Question 5. A number of people.

Question 6. Years ago.

35. A. E. Stoecker, 832 Flatbush Ave., Brooklyn, N. Y., Tea & Coffee.

5267

Question 1. No.

Question 2. No.

Question 3. New York City.

Question 4. No.

Question 5. Compilation many authors.

Question 6. Long ago.

36. Walter Gamberson, 18 Newark Ave., Jersey City, N. J., Shoes.

5268

Question 1. No.

Question 2. No.

Question 3. New York.

Question 4. No.

Question 5. Compilations from time to time.

Question 6. Many years ago.

5269

Exhibit: Produced by Witness Schultz.

37. G. W. Bilby, 177 Montgomery Street, Jersey City, N. J., Paint Supplies.

Question 1. No.

Question 2. No.

Question 3. New York.

Question 4. No.

Question 5. Webster & others.

Question 6. Long ago.

5270

38. Wm. Rendell, Trenton, N. J., Wholesale Shoe Mfg.

Question 1. No.

Question 2. Anybody.

Question 3. Phila. & N. Y.

Question 4. No.

Question 5. Not Webster entirely, added to from time to time.

Question 6. Many years ago.

5271

39. Maxwell Hornell, 94 Thomas St., Newark, N. J., Theatre.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. New York.

Question 6. Long ago.

5272

40. Henry Price, 693 South Broad St., Trenton, N. J., M'f'r Door Mats.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. No.

Question 6. No.

Exhibit: Produced by Witness Schultz.

5273

41. Ellwood Roberts, 54 Commerce St., Trenton, N. J., P. R. R. Freight.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. No.

Question 6. No.

42. Frank L. Biler, 907 Carteset Ave., Trenton, N. J., Salesman.

5274

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. No.

Question 6. No.

43. W. Green, 237 No. Broad St., Trenton, N. J., Police Officer.

5275

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. No.

Question 6. No.

44. Thomas Mahoney, 117 Pearl St., Trenton, N. J., Officer.

5276

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. No.

Question 6. No.

5277 *Exhibit: Produced by Witness Schultz.*

45. John G. Morgan, 723 South Broad Street,
Trenton, N. J., Shoe Mfg.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. No.

Question 6. No.

5278 46. A. K. Formas, 24 Broad Street, Trenton,
N. J., Building Inspector.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. No.

Question 6. No.

5279 47. S. H. Stradley, 833 Market Street, Wil-
mington, Del., Fire Insurance.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Could not say

Question 6. " " "

5280 48. Walter B. McKay, 5 E. 9th Street, Wil-
mington, Del., Stationers.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. No.

Question 6. No.

Exhibit: Produced by Witness Schultz.

5281

49. J. Krohm, 362 Bourse Building, Phila., Pa.,
Hay & Grain Clerk.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. No.

Question 6. No.

50. W. Mahoney, 286 First Street, Jersey City,
N. J., Florist. 5282

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. No.

Question 6. No.

51. Sam Lipton, 12 Newark Ave., Jersey City,
N. J., Clothier. 5283

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. No.

Question 6. No.

52. J. I. Jessup, 909 Market St., Wilmington,
Del., Manager. 5284

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Don't know.

Question 6. Don't know.

5285 *Exhibit: Produced by Witness Schultz.*

53. Louis Le Combe, 337 56th St., Brooklyn, N. Y., Shipfitter.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. Don't know.

5286 54. George Anderson, 150 30th St., Brooklyn, N. Y., Clerk.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. Don't know.

5287 55. Robert Schulz, 437 3rd Ave., Brooklyn, N. Y., Tool Grinder, Robin's Dry & Repair Co.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. Don't know.

5288 56. Chas. Davis, 209 Lexington Ave., Brooklyn, N. Y., Clerk.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Don't know.

Question 6. Don't know.

Exhibit: Produced by Witness Schultz.

5289

57. William Melody, 386 Van Brunt St., Brooklyn, N. Y., Shipfitter.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. Don't know.

58. William Walker, 94 Lynch St, Brooklyn, N. Y., Receiving Clerk.

5290

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Don't know.

Question 6. Don't know.

59. Edward McMellin, 49 Dikeman St., Brooklyn, N. Y., Clerk.

5291

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Don't know.

Question 6. Don't know.

60. Henry Boyle, 206 Conover St., Brooklyn, N. Y., Clerk.

5292

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Don't know.

Question 6. Don't know.

5293

Exhibit: Produced by Witness Schultz.

61. Joseph Seitz, 280 Maujer Street, Brooklyn, N. Y., Clerk.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Don't know.

Question 6. Don't know.

5294

62. Harry Deaner, 155 Gatting Place, Brooklyn, N. Y., Ship Fitter.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. Don't know.

5295

63. Dr. H. Dangler, 445 Classon Avenue, Brooklyn, N. Y., M. D.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Don't know.

Question 6. Don't know, has no idea.

5296

64. Dr. G. Westover, 184 St. Nicholas Avenue, Brooklyn, N. Y., M. D.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Don't know.

Question 6. Don't know.

Exhibit: Produced by Witness Schultz.

5297

65. Harold Johnson, 12 Clinton Street, Brooklyn, N. Y., Clerk.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. Don't know.

5298

66. A. Hamlen, 150 Montague Street, Brooklyn, N. Y., Insurance.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster and others.

Question 6. Long ago.

67. C. F. Curtis, 6 Newark Avenue, Jersey City, N. J., Del. Light Co. 5299

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster and many others.

Question 6. Many years ago.

68. J. E. Hudson, 6 Newark Avenue, Jersey City, N. J., Delaware Gas Light Company. 5300

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster and others.

Question 6. Before my time.

5301

Exhibit: Produced by Witness Schultz.

68. S. Crowell, 138 Albany St., New Brunswick,
N. J., N. Y. Tel. Co.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster and others

Question 6. Before my time.

5302

70. D. G. Odell, 367 Washington St., Brooklyn,
N. Y., Broker.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster and others.

Question 6. Some years ago.

5303

71. Walter Moulton, Room 204, Eagle Build-
ing, Brooklyn, N. Y., Clerk.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster and others.

Question 6. Many years ago, before my
time.

5304

72. Geo. W. Smith, 249 Jackson St., Trenton,
N. J., Clerk.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster and others.

Question 6. Years ago.

Exhibit: Produced by Witness Schultz.

5305

73. Nicholas Jordan, So. Warren St., Trenton,
N. J., Clothing Mfg.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster and others.

Question 6. Long ago.

74. Geo. C. Prace, 216 Pearl St., Trenton, N. J.,
Clerk.

5306

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster not entirely.

Question 6. Long time ago.

75. Harry Wilson, 19 So. Warner, Trenton, N.
J., Wall paper.

5307

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster and others.

Question 6. Long ago.

76. A. Yerkes, 7. E. State St., Trenton,
N. J., Wholesale Cigar Co.

5308

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster and a number of peo-
ple.

Question 6. Long ago.

5309 *Exhibit: Produced by Witness Schultz.*

77. L. T. Walkers, 960 So. Broad St, Trenton,
N. J., Builder.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No

Question 5. Webster not entirely.

Question 6. Years ago.

5310 78. Dr. J. E. Keeler, 17 W. State St., Trenton,
N. J., Dentist

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No

Question 5. Webster and many others.

Question 6. Years ago.

5311 79. Henry Glenk, 217 West Hanover Street,
Trenton, N. J., Cafe.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster and others.

Question 6. At different times years ago.

5312 80. O. R. Wetzel, 501 East State Street, Tren-
ton, N. J., Salesman.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster and others.

Question 6. Long ago.

Exhibit: Produced by Witness Schultz.

5313

81. R. A. Snyder, 477 Hamilton Avenue, Trenton, N. J., Salesman.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster and others.

Question 6. Years ago.

82. H. K. Mitchell, 794 Stuyvesant Avenue, Trenton, N. J.

5314

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster, but not all.

Question 6. Years ago.

83. Dr. C. H. Ale, 17 West State Street, Trenton, N. J., Dentist.

5315

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Started by Webster and added to.

Question 6. Many years ago.

84. Dr. Mitchell, 110 Centre Street, Trenton, N. J., M.D. Doctor.

5316

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

5317

Exhibit: Produced by Witness Schultz.

Question 5. Credit not all due to Webster,
compiled from other work.

Question 6. Years ago.

85. Dr. W. A. Kregloh, 212 State Street, Brooklyn, N. Y., Doctor.

Question 1. No.

Question 2. No.

5318

Question 3. No.

Question 4. No.

Question 5. Webster and others.

Question 6. Long ago.

86. O. R. Applegate, 819 Revere Avenue, Trenton, N. J., Photographer.

Question 1. No.

Question 2. No.

Question 3. No.

5519

Question 4. No.

Question 5. Noah Webster and others.

Question 6. Years ago.

87. S. Slonim, 161 Church Street, New Brunswick, N. J., Jewelry.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

5320

Question 5. Webster and others.

Question 6. Long ago.

88. L. H. Wolff, 138 Albany Street, New Brunswick, N. J., New York Telephone Company.

Question 1. No.

Question 2. No.

Question 3. No.

*Exhibit: Produced by Witness Schultz.*53²¹

Question 4. No.

Question 5. Webster and others.

Question 6. Recently.

89. August Petrie, 307 Washington St., Brooklyn, N. Y., Brewer Representative.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

53²²

Question 5. Noah Webster and others.

Question 6. Can't say.

90. Frederick Whitehead, Trenton, N. J., Contractor.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster and others.

53²³

Question 6. A number of people.

91. Howell Brader, 204 Pacusie St., Trenton, N. J., Printer.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster and others.

Question 6. ()

53²⁴

92. Wm. Vogel, 701 E. State St., Trenton, N. J., Butcher.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

5325

Exhibit: Produced by Witness Schultz.

Question 5. Webster and others.

Question 6. ()

93. David S. South, 145 E. Hanover St., Trenton, N. J., State House.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

5326

Question 5. Webster.

Question 6. By the originator of the Dec.
Compilation by Webster
and many others.

94. J. H. Austin, 105 Colonial Ave., Trenton, N. J., Contractor.

Question 1. No.

Question 2. No.

Question 3. No.

5327

Question 4. No.

Question 5. Webster and any number of
other people from time to
time.

Question 6. ().

95. Fred B. Potter, 895 2nd St., Trenton, N. J.,
Clerk-Real Estate-P. R. R.

Question 1. No.

Question 2. No.

5328

Question 3. No.

Question 4. No.

Question 5. Webster and improved upon
by others.

Question 6. By a committee of opinions.

Exhibit: Produced by Witness Schultz.

5329

96. H. K. Stevenson, 128 E. Hanover St., Trenton, N. J., Clerk State Dept. of Education.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster and others.

Question 6. No.

97. W. H. Lindner, 44 Park Place, Morristown, N. J., Western Union Tel.

5330

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Committee of Colleges.

Question 6. 40 years ago.

98. J. Thorn, Sr., 819 Berkley, Trenton, N. J., Pressman True Am.

5331

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Party of Men.

Question 6. Years ago.

99. Chas. Heath, Trenton, N. J., Builder Material.

5332

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 4. No.

Question 5. By an authorized Comm.

Question 6. Before my time.

5333 *Exhibit: Produced by Witness Schultz.*

100. Wm. L. Haines, 131 Bayard St., Trenton.
N. J., Steam Engineer.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. A number of authors
- Question 6. Years ago.

5334 101. Dr. S. Freeman, 560 E. State Street, Trenton, N. J., Doctor, M. D.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. By a committee from time to time.
- Question 6 Years ago.

5335 102. Julius Schultz, 119 Temple Street, Trenton, N. J., Clothing Mfg. Manager.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Largely a compilation.
- Question 6. Years ago before my time.

5336 103. W. C. Clyver, 18 McKinley Aevnue, Trenton, N. J., Shoes.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Different Men.
- Question 6. Long ago "original."

Exhibit: Produced by Witness Schultz.

5337

104. L. Echstein, 1116 W. State Street, Trenton, N. J., Broom Mfg.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Different Composers.

Question 6. Years ago.

105. Simin Gersen, 34 Livingston Street, Trenton, N. J., Shirts.

5338

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Many people.

Question 6. Years ago.

106. John P. Nielson, 5121-5th Avenue, Brooklyn, N. Y., Hotel.

5339

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Many Compilations.

Question 6. 30 years.

107. Eugene Malley, 353 Fulton Street, Brooklyn, N. Y., Dennetts Manager.

5340

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Many Compilations.

Question 6. Many years ago.

5341 *Exhibit: Produced by Witness Schultz.*

108. Robt. Simpson, 381 1st Street, Brooklyn,
N. Y., Notary.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Compiled from standard
works.

5342 Question 6. Middle of last century.

109. Martin O'Neill, 478 60th St., Brooklyn,
N. Y., Builder.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No

Question 5. Many compilations.

Question 6. 30 years.

5343 110. M. A. Elliott, 838 Flatbush Ave., Brook-
lyn, N. Y., Clerk Eagle.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No

Question 5. Many editors.

Question 6. 40 years.

5344 111. Waldorf Welton, 842 Union St., Brooklyn,
N. Y., Adv. Agt.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. A collection of college pro-
fessors.

Question 6. Long ago.

Exhibit: Produced by Witness Schultz.

5345

112. H. Ehler, 271 Washn., St., Brooklyn, N. Y., Bowling Alley.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Many people.

Question 6. Years ago.

113. Robt. Stevenson, 4417 7th Ave., Brooklyn, N. Y., Treas.

5346

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Sets of learned people.

Question 6. About 1835, maybe earlier.

114. Thurston Scott Welton, 842 Union St., Brooklyn, N. Y., Doctor.

5347

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. No one man; a compilation.

Question 6. Between 1830 to 1845; within that period.

115. Robt. S. Kemp, 284 Windsor Place, Brooklyn, N. Y., Accountant.

5348

Question 1. Don't know.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Compilation and a growth.

5349 • *Exhibit: Produced by Witness Schultz.*

Question 6. Also a growth, using words
found in Johnson's and
preceding dictionaries.

116. Joe Schwager, 325 Wash. St., Brooklyn,
N. Y., Cigars.

5350
Question 1. No.
Question 2. No.
Question 3. No.
Question 4. No.
Question 5. Many writers.
Question 6. 40 years.

117. Chas. Sanger, 67 Court St., Brooklyn, N.
Y., Real Estate.

5351
Question 1. No.
Question 2. No.
Question 3. No.
Question 4. No.
Question 5. Many completed the work.
Question 6. Long ago.

118. Nathan Kaplin, 26 Court St., Brooklyn,
N. Y., Real Estate.

5352
Question 1. No.
Question 2. No.
Question 3. No.
Question 4. No.
Question 5. Many authors.
Question 6. Long ago.

119. Robt. B. Wolton, 842 Union St., Brooklyn,
N. Y., Doctor.

Question 1. No.
Question 2. No.
Question 3. No.

Exhibit: Produced by Witness Schultz.

5353

Question 4. No.

Question 5. Students of rhetoric

Question 6. About 1860.

120. David Hughes, 18 Hawthorne St., Brooklyn, N. Y., Salesman

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

5354

Question 5. Men appointed for such work.

Question 6. About 1855.

121. Sherman Petrie, 427 15th St., Brooklyn, N. Y., Carpenter Tug Boats.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

5355

Question 5. University professors.

Question 6. Long ago.

122. L. A. Stokes, 103 Church St., New Brunswick, N. J., Gents' Furnishing.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Compilation.

5356

Question 6. Years ago.

123. David Posner, 53 Church St., New Brunswick, N. J., Dry goods.

Question 1. No.

Question 2. No.

Question 3. No.

5357 *Exhibit: Produced by Witness Schultz.*

Question 4. No.

Question 5. Compilation many authors.

Question 6. Long ago.

124. H. Eber, 29 Church St., New Brunswick,
N. J., Occupation Furniture.

Question 1. No.

Question 2. No.

5358

Question 3. No.

Question 4. No.

Question 5. No end of authors.

Question 6. Many years ago.

125. Pat Grimley, 91 Church St., New Brun-
swick, N. J., Occupation Teas, Coffee.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

5359

Question 5. Compilation.

Question 6. Long ago.

126. S. Slonim, 161 Church St., New Brunswick,
N. J., Occupation Jewelry.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

5360

Question 5. Compilation many authors.

Question 6. Years ago.

127. Anna Casey, Dupont Building, Market
Street, Wilmington, Del., Stenographer, Del. Elec-
tric Supply Co.

Question 1. No.

Question 2. No.

Exhibit: Produced by Witness Schultz.

5361

- Question 3. No.
- Question 4. No.
- Question 5. Compilation.
- Question 6. Recently.

128. F. M. Macdonald, 70 Park Place, Newark,
N. J., Insurance.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Number of people.
- Question 6. No fixed time matters being
arranged as editions are
printed.

5362

129. Walter Prendergast, 368 Clinton Street,
Brooklyn, N. Y., Broker.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Various people.
- Question 6. How do I know I never thought
of it.

5363

130. Harry Lyttle, 377 Clinton Street, Brooklyn,
N. Y., Cashier Robins Dry docks.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. I should judge several smart
men.
- Question 6. I don't know.

5364

5365

Exhibit: Produced by Witness Schultz.

131. F. S. Faye, 460 Bainbridge St., Brooklyn, N. Y., Claim Agent.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Questions 5 and 6. Fixed faculties from time to time by different colleges.

5366

132. Aug. Gauch, 12 Hawthorne St., Brooklyn, N. Y., Mfg.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. From previous dictionaries.

Question 6. Don't know.

5367

133. G. F. Frost, 44 Court St., Brooklyn, N. Y., Corn Ex. Bank.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Can't think.

Question 6. Time Noah's Ark.

5368

134. A. Danelson, Williamsburg Hospital, Brooklyn, N. Y., Supt. of Hospital.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Don't know.

Question 6. Think long ago.

Exhibit: Produced by Witness Schultz.

5369

135. Dr. Meiseles, 155 Vernon Ave., Brooklyn,
N. Y., M. D.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Don't know.

Question 6. Long ago.

136. John Colson, 704 Park Ave., Brooklyn, N.
Y., Clerk.

5370

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Don't know.

Question 6. Long ago.

137. M. L. Hamilton, 732 Flatbush Avenue,
Brooklyn, N. Y., Real Estate.

5371

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Doubt if one in a thousand
could answer affirmatively
all the questions.

Question 6. Forty years ago.

138. Fred G. Isle, 846 Hancock Street, Brook-
lyn, N. Y., Real Estate.

5372

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

5373

Exhibit: Produced by Witness Schultz.

Question 5. Don't know.

Question 6. Long ago.

139. O. A. Boyd, 704 Market Street, Wilmington, Del., Shoes.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

5374

Question 5. Don't know.

Question 6. Many years ago.

140. Greta Dutton, 514 Ford Building, Wilmington, Del., Stenographer.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

5375

Question 5. Don't know.

Question 6. Long ago.

141. C. F. Morfort, Wilmington, Del., Building Superintendent, Y. M. C. A.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Don't know.

5376

Question 6. Long ago.

142. W. E. Van Liew, 25 Speedwell Avenue, Morristown, N. J., Funeral Director.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Exhibit: Produced by Witness Schultz.

5377

Question 5. Can't say.

Question 6. Years ago.

143. E. Schmidt, 359 Springfield Ave., Newark,
N. J., Butcher.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Don't know.

5378

Question 6. Long ago.

144. C. Schultz, 350 Washington St., Newark,
N. J., Printer.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Don't know.

5379

Question 6. Long time ago.

145. D. J. O'Connor, 710 Chestnut St., Phila.,
Pa., Owner A. J. Coulter Hats.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Don't know.

Question 6. Some time ago.

5380

146. H. Reyno, 21 S. 6th St., Phila., Pa., Drug-
gist.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. No.

Question 6. Before my time.

5381

Exhibit: Produced by Witness Schultz.

147. I. Lipsky, 522 Market Street, Philadelphia, Pa., Clothing.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Don't know.
- Question 6. Long ago.

5382

148. Wm. F. Voigt, 25 Sixth Street, Philadelphia, Pa., Paper.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. No.
- Question 6. Long ago.

5383

149. C. W. Sedam, Jr., 53 Paterson Street, New Brunswick, N. J., Agent.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Don't know.
- Question 6. Long ago.

5384

150. Saml. Brown, 905 Market Street, Wilmington, Del., Penn. R. R. Office Clerk.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. No.
- Question 6. Recently.

Exhibit: Produced by Witness Schultz.

5385

151. N. V. Duling, 627 Market St., Wilmington, Del., Salesman-Shoes.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Don't know.

Question 6. Recently.

152. S. Schneider, 102 Orange St., Newark, N. J., Cigars.

5386

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. Don't know.

153. J. J. Schmidt, 88 Canal St., Newark, N. J., Coal.

5387

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. Don't know.

154. W. C. Coryman, 229 Sixth Ave., Newark, N. J., Salesman.

5388

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

Question 6. I do not know.

5389

Exhibit: Produced by Witness Schultz.

155. J. G. Seiser, 535 Central Ave., Newark,
N. J., Baker.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Webster.
- Question 6. Don't know.

5390

156. E. M. McLean, 128 Wright St., Newark,
N. J., Plumber.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Dan'l Webster.
- Question 6. Don't know.

5391

157. Chas. S. Samuels, 335 Bourse Building,
Philadelphia, Pa., Insurance Broker.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Webster.

158. Geo. Pilgy, 89 Clay St., Painter.

5392

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Webster.
- Question 6. Don't know.

Exhibit: Produced by Witness Schultz.

539

159. Geo. J. Jagle, 829 Broad St., Newark, N. J.,
Merchant.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. Can't imagine.

160. Joseph S. Shoyer, 251 Market St., Newark,
N. J., Printer.

539

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. No.

161. H. R. Mill, 836 Broad St., Newark, N. J.,
Barber.

539

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Dan'l Webster.

Question 6. Cannot say.

162. M. M. Bendheim, S. W. Cor. 74 Market St.,
Wilmington, Del., Walk-Over Boot Shop.

539

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

Question 6. All less.

5397

Exhibit: Produced by Witness Schultz.

163. John Bonnett, 250 E. Third St., Brooklyn,
N. Y., Clerk.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I should judge Webster.

Question 6. Don't know.

5398

164. James Bruce, Brooklyn, N. Y., Purchasing
Agent Robins Dry Dock.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I would credit Webster.

Question 6. I haven't any idea.

165. Geo. Try, Robins Dry Docks, Brooklyn, N.
5399 Y., Boss Blacksmith.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. I give it up.

166. Ben Yerkes, 235 Spring St., Trenton, N. J.,
Cigars.

5400

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. Don't know.

Exhibit: Produced by Witness Schultz.

5401

167. A. G. Howell, 157 Hoffman St., Trenton,
N. J., Clerk City Hall.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. Time to time.

168. F. K. Smith, 836 Flatbush Ave., Brook- 5402
lyn, N. Y., Shoes.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

Question 6. Long ago.

169. T. J. Murphy, 510 E. 16th St., Brooklyn, 5403
N. Y., Real Estate.

Question 1. No.

Question 2. Webster.

Question 3. No.

Question 4. No.

Question 5. Dan'l Webster.

Question 6. Long ago.

170. Raymond D. Hill, 201 Broad St., Bank
Bldg., Trenton, N. J., Manager.

5404

Question 1. No.

Question 2. Webster & publishers.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. Years ago before my time.

5405

Exhibit: Produced by Witness Schultz.

171. Edward Jurgensen, 45 Broadway, Mining.

Question 1. No.

Question 2. Not necessarily.

Question 3. No.

Question 4. Not posted.

Question 5. Natural inference Noah Webster.

Question 6. Not recently.

5406

172. Chas. Worcester, 207 Washington Street, Brooklyn, N. Y., Excise Bonds.

Question 1. No.

Question 2. Am. Book Co.

Question 3. Boston, Mass.

Question 4. No.

Question 5. Noah Webster compiled the work.

Question 6. Long ago.

5407

173. Ed. J. Fandrey, 307 Washington Street, Brooklyn, N. Y., Lawyer.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. Subsequent editions gotten up by other publishers.

Question 5. Noah Webster.

Question 6. Long ago.

5408

174. A. J. Mueller, 42 Clinton Street, Newark, N. J., Law Books.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Several Authors.

Question 6. Some years ago.

Exhibit: Produced by Witness Schultz.

5409

175. W. E. McCann, 599 Flatbush Avenue,
Brooklyn, N. Y., Real
Estate.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. No idea who wrote the new
edition.

5410

Question 6. Long ago.

176. Wm. Hammond, 38 McKinley Avenue,
Trenton, N. J., Bookkeeper, Hooper & Co.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. Under the impression each ten
years.

Question 5. Webster.

5411

Question 6. Years ago.

177. J. Dana Weld, 16 Warren Street, Trenton,
N. J., Bookkeeper.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

Question 6. Years ago.

5412

178. H. L. Runyar, 47 W. Hanover Street,
Trenton, N. J., Draftsman.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

413

Exhibit: Produced by Witness Schultz.

Question 5. Webster.

Question 6. Don't know before my time.

179. Jno. Knopf, 39 N. Willow Street, Trenton, N. J., Clerk.

Question 1. No.

Question 2. No.

Question 3. No.

5414

Question 4. No.

Question 5. Webster.

Question 6. Long ago.

180. Irving Rosenmans, 420 W. Hanover Street, Trenton, N. J., Advertising.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

5415

Question 5. Webster.

Question 6. Some time ago.

181. D. T. Magowan, Post Box 660, Trenton, N. J., Transfer Agt.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

5416

Question 6. Long ago.

182. Geo. H. Dopper, 504 Bridge Street, Trenton, N. J., Laundry.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Exhibit: Produced by Witness Schultz.

5417

Question 5. Webster.

Question 6. Years ago.

183. C. R. Richards, 530 Centre Street, Trenton, N. J., Manager Brush Factory.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. Years ago.

5418

184. Lincoln Updike, 407 Broad Street, Trenton, N. J., Builder.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. Years ago.

5419

185. B. M. Brindley, Stackwood, Trenton, N. J., Wall Paper.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. Years ago.

5420

186. Geo. W. Sines, 234 E. Front Street, Trenton, N. J., Painter.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

5421

Exhibit: Produced by Witness Schultz.

Question 5. Webster.

Question 6. Long ago.

187. E. A. Rice, 23 W. Hanover Street, Trenton, N. J., Court House Keeper.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

5422

Question 5. Noah Webster.

Question 6. Years ago.

188. J. F. Karney, 832A Flatbush Ave., Brooklyn, N. Y., Clerk.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

5423

Question 6. Many years ago.

189. J. F. Faulkner, 145 Lefferts Avenue, Brooklyn, N. Y., Broker.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

5424

Question 6. Forty years ago.

190. R. G. Green, 51 Midwood Street, Bklyn., N. Y., Engineer.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Exhibit: Produced by Witness Schultz.

5425

Question 5. Daniel Webster.

Question 6. Years ago.

191. Charles Baker, 97 Seventh Avenue, Brooklyn, N. Y., Druggist.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

5426

Question 6. Long ago.

192. Fred Anthony, Williamsburg Hospital, Brooklyn, N. Y., Clerk.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

5427

Question 6. Year 1840.

193. Max Greenburg, 652 Flatbush Avenue, Brooklyn, N. Y., Cigars.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

Question 6. Long ago.

5428

194. Dr. B. Katz, South Third and Bedford Avenue, Brooklyn, N. Y., M. D.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

5429

Exhibit: Produced by Witness Schultz.

Question 5. Daniel Webster.

Question 6. Long ago.

195. George Wunschel, 46 Lexington Avenue,
Brooklyn, N. Y., Watch Dials.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

5430

Question 5. Webster.

Question 6. Fifty years.

196. Walter Clarke, 93 Third Place, Brooklyn,
N. Y., Auditor, Robins Dry Docks.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

5431

Question 5. Noah Webster.

Question 6. About 1832.

197. Charles E. Tice, 589 Rodgers Avenue,
Brooklyn, N. Y., real estate.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Daniel Webster.

5432

Question 6. During this generation, say
fifty years.

198. A. Heuer, 271 Washington Street, Brook-
lyn, N. Y., Hotel.

Question 1. No.

Question 2. No.

Question 3. No.

Exhibit: Produced by Witness Schultz.

5433

Question 4. No.

Question 5. Daniel Webster.

Question 6. Long ago.

199. Valentine Schlaefel, Eagle Building,
Brooklyn, N. Y., Real Estate.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

5434

Question 5. Noah Webster.

Question 6. Sixty years ago. I am 84
years old. Known the book
for many years.

200. Dr. F. Cohen, 72 Columbia Street, Brook-
lyn, N. Y., M. D.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

Question 6. 1700.

5435

201. Dr. M. Feiner, 536 Dean Street, Brooklyn,
N. Y., M. D.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

Question 6. 1850.

5436

Exhibit: Produced by Witness Schultz.

5437

202. Dr. F. Harnder, 208 Eighth Avenue,
Brooklyn, N. Y., M. D.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

Question 6. Long ago.

5438

203. E. Flandrey, 307 Washington Street,
Brooklyn, N. Y., Lawyer.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

Question 6. Long ago.

5439

204. Rufus A. Reif, 339 46th Street, Brooklyn,
N. Y., Hotel.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Daniel Webster.

Question 6. Many years ago.

5440

205. Dr. Scofield, 72 Lee Avenue, Brooklyn,
N. Y., M. D.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

Question 6. About 1848.

*Exhibit: Produced by Witness Schultz.*544¹

206. Dr. H. A. Wade, corner Green and Nos-
trand Avenues, Brooklyn, N. Y., M. D.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

Question 6. 1850.

207. Dr. Waldie, 470 Ft. Hamilton Avenue,
Brooklyn, N. Y., M. D.

544²

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

Question 6. Long ago.

208. Dr. Slavin, 174 N. 6th Street, Brooklyn,
N. Y., M. D.

544³

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

Question 6. Long ago.

209. Henry Peters, 325 Wash. Street, Brooklyn,
N. Y., Cigars.

544⁴

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster & etc.

Question 6. Many years ago.

5445

Exhibit: Produced by Witness Schultz.

210. Dr. A. A. Mendez, 29 E. 44th Street, City,
M. D.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Noah Webster wrote the nu-
cleus.

5446

Question 6. Year 1800.

211. Bernhard Schulz, John N. Robins Dry
Docks, Brooklyn, N. Y., Foreman.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Noah Webster.
- Question 6. Before my time, 35 years old.

5447

212. Chas F. Schlaefel, Eagle Building, 307
Washington Street, Brooklyn, N. Y., Real Estate.

- Question 1. No
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Noah Webster.
- Question 6. Long ago.

5448

213. Walter Vagts, 85 Walker Street, New York
City, Hardware.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Danl. Webster, Noah.
- Question 6. Many years ago.

Exhibit: Produced by Witness Schultz.

5449

214. Patrick Forte, 832 Flatbush Avenue,
Brooklyn, N. Y., Clerk.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. Many years ago.

215. Robt. Bernet, 271 Wash. St., Brooklyn, N. Y., Alley Builder. 5450

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. Long time ago.

216. Dr. Stahl, 372 Bainbridge Street, Brooklyn, N. Y., M. D. 5451

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

Question 6. 1878.

217. N. Gottlieb, 93 7th Avenue, Brooklyn, N. Y., Stationery salesman.

5452

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. D. Webster.

Question 6. Long, long ago.

5453 *Exhibit: Produced by Witness Schultz.*

218. B. H. Barto, 22 Court Street, Brooklyn, N. Y., Erie R. R.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Webster, Dan'l.
- Question 6. Long ago.

5454 219. Joe Mahoney, Williamsburg Hospital, Brooklyn, N. Y., Tel. operator.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Don't know.
- Question 6. Long ago.

5455 220. Henry Affel, 97 7th Ave., Brooklyn, N. Y., Druggist.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Webster.
- Question 6. 1825.

5456 221. J. W. Roberts, 831 Market St., Wilmington, Del., Gent's Furnisher.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Webster.
- Question 6. Before my time.

Exhibit: Produced by Witness Schultz.

5457

222. E. H. Simons, 102 W. 15th Street, Wilmington, Del., Contractor.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Supposition Webster.

Question 6. Beyond my time.

223. H. P. Goslin, 915 Shipley Street, Wilmington, Del., Auto File Company.

5458

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

Question 6. Can't tell, before my time.

224. F. R. Philips, 2314 Lamotte Street, Wilmington, Del., Window Trimmer.

5459

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

Question 6. Some time ago.

225. J. H. Brewer, Tenth and Orange Streets, Wilmington, Del., Clerk, Y. M. C. A.

5460

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. Long ago.

5461 *Exhibit: Produced by Witness Schultz.*

226. W. L. Henderson, 832 Market Street, Wilmington, Del., Hats.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. Long ago.

5462 227. J. R. Michaelis, James Mullin & Sons, Sixth and Market Streets, Wilmington, Del., Salesman.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

Question 6. Many years ago.

5463 228. Walter G. Valentine, James Mullen & Son, Sixth and Market Streets, Wilmington, Del., Salesman.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. Before my time.

5464 229. C. E. Pierson, 913 Market Street, Wilmington, Del., Insurance.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Exhibit: Produced by Witness Schultz.

5465

Question 5. Webster.

Question 6. Some time ago.

230. J. Phelps, 112 West Tenth Street, Wilmington, Del., Grocers.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

5466

Question 6. Long ago.

231. E. N. Keeler, 18 South Ourbrook Avenue, Trenton, N. J., Druggist.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. Many years ago.

5467

232. E. C. Hall, United States Hotel, Morristown, N. J., Hotel Clerk.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. Long ago.

5468

233. E. C. Hall, U. S. Hotel, Morristown, N. J., Hotel Clerk.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

5469

Exhibit: Produced by Witness Schultz.

Question 5. Webster.

Question 6. Long ago.

234. G. E. Babbitt, 8 Merchants Block, Morristown, N. J., Clothiers.

Question 1. No.

Question 2. No.

Question 3. No.

5470

Question 4. No.

Question 5. Webster.

Question 6. Years ago, 40 or more.

235. H. A. Babbett, 8 Merchants Block, Morristown, N. J., Clothiers.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

5471

Question 5. Webster.

Question 6. Long ago.

236. P. F. Lipter, 839 Broad Street, Newark, N. J., Clerk.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

5472

Question 6. Many years ago.

237. F. Aldendorff, 839 Broad Street, Newark, N. J., Clerk.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Exhibit: Produced by Witness Schultz.

54

Question 5. Webster.

Question 6. Long ago.

238. S. E. Raube, 839 Broad Street, Newark,
N. J., Manager.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

54

Question 6. Before my time.

239. J. Bernstein, 823 Broad Street, Newark,
N. J., Hats.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. Long ago.

5473

240. J. Eisenstodt, 823 Broad Street, Newark,
N. J., Hats.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Dan'l Webster.

Question 6. Long ago.

547

241. Eugene Stehlin, 34 13th Avenue, Newark,
N. J., Cashier.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

5477

Exhibit: Produced by Witness Schultz.

Question 5. Webster.

Question 6. Long ago.

242. C. Wilson Pollard, 260 Oliver Street,
Newark, N. J., Salesman.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

5478

Question 5. Noah Webster.

Question 6. Long ago.

243. A. J. Miller, 12 & 14 William Streets, New-
ark, N. J., Electric supply.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

5479

Question 6. Before my time.

244. Rich'd Crosby, 12 and 14 William Street,
Newark, N. J., Electric supply.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. Long ago.

5480

245. E. H. Scaltergood, 12 & 14 William Street,
Newark, N. J., Electric supply.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Exhibit: Produced by Witness Schultz.

5481

Question 5. Webster.

Question 6. Long ago.

246. Chas. Nearman, 836 Broad Street, Newark,
N. J., Barber.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

5482

Question 6. Some time ago.

247. N. T. Atchley, 156 Market Street, Newark,
N. J., Manager.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

Question 6. Years ago.

5483

248. Elias Schill, 7 Commerce Street, Newark,
N. J., Saloon keeper.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Daniel Webster.

Question 6. Long ago.

249. F. S. Fettingier, 893 So. 17th Street, New-
ark, N. J., Advertiser.

5484

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

5485

Exhibit: Produced by Witness Schultz.

Question 5. Noah Webster.

Question 6. Before my time.

250. E. J. Norris, 40 Commerce Street, Newark, N. J., Merchant.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

5486

Question 5. Noah Webster.

Question 6. 1812.

251. Daniel Maher, 104 Johnson Avenue, Newark, N. J., Plumber.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 6. Noah Webster.

5487

Question 6. Before my time.

252. F. Martus, 732 Broad Street, 832 Broad Street, Newark, N. J., Painter.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Dan'l Webster.

Question 6. Long ago.

5488

253. M. T. McKeown, 323 Bourse Building, Philadelphia, Pa., Stenographer.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Exhibit: Produced by Witness Schultz.

548

Question 5. Noah Webster.

Question 6. Many years ago.

254. W. H. Zeliff, 481 Bourse Building, Phila., Pa., Mutual Transit Co.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

519

Question 6. Long while ago.

255. P. Sander, 434 Market Street, Philadelphia, Pa., Stationery.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. Some time ago.

549

256. John Deese, 508 Market Street, Philadelphia, Pa., Howe Scale.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

Question 6. Long ago.

549

257. A. D. Austen, 508 Market Street, Philadelphia, Pa., Howe Scale.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

5493

Exhibit: Produced by Witness Schultz.

Question 5. Noah Webster.

Question 6. Long ago.

258. W. E. Darnell, 21 So. 6th Street, Philadelphia, Pa., Dry Goods.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

5494

Question 5. Webster.

Question 6. Long ago.

259. Austin McClure, 138 Albany Street, New Brunswick, N. J., N. Y. Tel. Co.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

5495

Question 6. Many years ago.

260. D. H. McCarr, 138 Albany Street, New Brunswick, N. J., N. Y. Tel. Co.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

Question 6. Long ago.

5496

261. C. H. Cramer, 349 George Street, New Brunswick, Real Estate.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Exhibit: Produced by Witness Schultz.

5497

Question 5. Webster.

Question 6. Long ago.

262. John E. Elmendorf, National Bank Building, New Brunswick, N. J., Lawyer.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster, Noah.

5498

Question 6. Many years ago. Compilation from time to time.

263. Joseph A. Hartman, 55 Schureman St., New Brunswick, N. J., Piano.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

5499

Question 6. Can't say.

264. James Kellett, 196 Nelson Street, New Brunswick, N. J., Retired Hotel Bar.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Daniel Webster.

Question 6. 50 years ago.

5500

265. Wesley Kempton, 22 Church Street, New Brunswick, N. J., Shoes.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

5501

Exhibit: Produced by Witness Schultz.

Question 5. Danl. Webster.

Question 6. Long ago.

266. Jas. Gurley, 31 Church St., New Brunswick, N. J., Teas & Coffee.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

5502

Question 5. Danl. Webster.

Question 6. 40 years.

267. K. Fox, 50 Church Street, New Brunswick, N. J., Millinery.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Don't know.

5503

Question 6. Before my time.

268. J. J. Colins, 56 Church St., New Brunswick, N. J., Piano.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Danl. Webster.

Question 6. Long ago.

5504.

269. G. Dreyer, 75 Church St., New Brunswick, N. J., Masie & Sporting Goods.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. Compilation long ago.

Exhibit: Produced by Witness Schultz.

550

270. M. G. Keefe, 69 Albany St., New Brunswick, N. J., Pianos.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Webster.
- Question 6. Long ago.

271. W. P. Onderkirk, 52 Church St., New Brunswick, N. J., Hats. 550

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Webster.
- Question 6. Years ago.

272. Same Posner, 52 Church St., New Brunswick, N. J., Dry Goods. 550

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Noah Webster.
- Question 6. 30 years ago.

273. Geo. King, 31 Church Street, New Brunswick, N. J., Shoes.

5508

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Noah Webster.
- Question 6. Long ago.

5509 *Exhibit: Produced by Witness Schultz.*

274. M. Reitz, 21 Church Street, New Brunswick, N. J., Jewelry.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. Long ago.

5510 275. J. Levinsen, 101 Church Street, New Brunswick, N. J., Jewelry.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Danl. Webster.

Question 6. Years ago.

5511 276. Chas D. Hungrige, 19 Church Street, New Brunswick, N. J., Hats.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Danl. Webster.

Question 6. Many years ago.

277. Nelson M. Hammell, 7 Church Street, New Brunswick, N. J., Toys & etc.

5512

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. Long ago.

Exhibit: Produced by Witness Schultz.

5513

278. Sam Myers, 81 Newark Avenue, Jersey City, N. J., Cigars.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Don't know, think Webster.

Question 6. Long ago.

279. Geo. Vill, 67 Newark Avenue, Jersey City, N. J., Trunks. 5514

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. 30 years.

280. G. H. H. Pratt, 6 Newark Avenue, Jersey City, N. J., Del. Gas Light Co. 5515

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Danl. Webster.

Question 6. 1832.

281. G. Lewis, Crescent Shoes, 84 Newark Avenue, Jersey City, N. J., Shoes.

Question 1. No. 5516

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. Long ago.

5517 *Exhibit: Produced by Witness Schultz.*

282. Nicholas Micucci, 487 Palisade Avenue,
Jersey City, N. J., Real Estate.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Webster.
- Question 6. Many years ago.

5518 283. Albert Hegson, 279 Grove St., Jersey City,
N. J., Real Estate.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Webster.
- Question 6. Long ago.

5519 284. R. A. Schmander, 49 Avon Ave., Newark,
N. J., Driver.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Danl. Webster.
- Question 6. Long ago.

285. A. Shiels, 168 Lafayette St., Newark, N.
J., Photographer.

- 5520
- Question 1. No.
 - Question 2. No.
 - Question 3. No.
 - Question 4. No.
 - Question 5. Webster.
 - Question 6. Long ago.

Exhibit: Produced by Witness Schultz.

5521

286. M. J. Sheridan, 224 Chestnut St., Newark,
N. J., Contractor.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. Long ago.

287. Albert Seety, 14 Blum St., Newark, N. J., 5522
Hat Mfg.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Danl. Webster.

Question 6. Long ago.

288. E. G. Selby, 786 Broad, Newark, N. J., 5523
Real Estate.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

Question 6. Long ago.

289. Adolf Schwarz, 604 Springfield, Newark,
N. J., Saloon.

Question 1. No.

5524

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. Long ago.

5525 *Exhibit: Produced by Witness Schultz.*

290 J L. Read, 356 Mulberry St., Newark, N. J., Contractor.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Webster.
- Question 6. Long ago.

5526 291. G. F. Webber, 836 Broad St., Newark, N. J., Barber.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Webster.
- Question 6. Before my time.

5527 292. M. O'Connor, Clark St., Newark, N. J., Spinner.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Webster.
- Question 6. A long time ago.

5528 293. Wm. Nabb, 825 Broad Street, Newark, N. J., Salesman.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Dan'l Webster.
- Question 6. Long ago.

Exhibit: Produced by Witness Schultz.

552

294. O. S. Atkinson, 825 Broad Street, Newark, N. J., Salesman.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. Long ago.

295. J. McElroy, 845 Broad Street, Newark N. J., Salesman.

553

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

Question 6. Before I was born.

296. J. Grace, No. 4th Street, Newark, N. J., Machinist.

553

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. Long ago.

297. Frank Washington, 18 Oriental Street, Newark, N. J., Salesman.

553

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. Long ago.

5533 *Exhibit: Produced by Witness Schultz.*

298. Geo. N. Willis, 73 Hillside Avenue, Newark, N. J., Salesman.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Noah Webster.
- Question 6. Long ago.

5534 299. Emil Dorsch, 831 South 13th Street, Newark, N. J., Salesman.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Dan'l Webster.
- Question 6. Long while ago.

5535 300. Charles B. Pollard, 20 Milford, Avenue, Newark N. J., Retired.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Noah Webster.
- Question 6. Half a century ago more or less.

5536 301. W. F. Anderson, 841 Broad Street, Newark, N. J., Salesman.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Webster.
- Question 6. Long while ago.

Exhibit: Produced by Witness Schultz.

5537

302. Wm. Roberts, 341 Broad Street, Newark,
N. J., Shoe Store.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

Question 6. Many years ago.

303. Robt. H. Hibberd, 825 Broad Street, 5538
Newark, N. J., Manager.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Danl. Webster.

Question 6. Before my time.

304. E. E. Mount, 96 Greene Street, Newark, 5539
N. J., Leather Belting, 274 Market Street.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Supposed to be Webster.

Question 6. Long time ago.

305. Edw. Keegan, 526 Market Street, Phila-
delphia, Pa., Steamship supplies.

5540

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. Before my time.

5541

Exhibit: Produced by Witness Schultz.

306. C. Robt. Bean, 423 Bourse Building, Philadelphia, Pa., Clerk, Fee Brokers.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Webster.
- Question 6. Long ago.

5542

307. Geo. H. White, 221 Market Street, Philadelphia, Pa., China & Glass.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Noah Webster.
- Question 6. Long time ago.

5543

308. A. Bispham, 522 Market Street, Philadelphia, Pa., Clothing.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Webster.
- Question 6. Long time ago.

5544

309. H. K. Gearhart, 1101 Market Street, Philadelphia, Pa., Hats; Manager.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Webster.
- Question 6. Long ago.

Exhibit: Produced by Witness Schultz.

5545

310. R. S. Carson, 516 Market Street, Philadelphia, Pa. Pipes.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster presumably.

Question 6. Long time ago, say 40 years.

311. Wm. S. Skahan, 516 Market Street, Philadelphia, Pa., Pipes. 5546

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. Some time ago.

312. J. G. Hamilton, 25 6th Street, Philadelphia, Pa., Paper. 5547

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. Long ago.

313. Simon Miller, 522 Market St., Philadelphia, Pa., Shoes. 5548

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster, don't know first name.

Question 6. Long time ago.

5549

Exhibit: Produced by Witness Schultz.

314. W. W. Wilson, 412 Bourse Building, Philadelphia, Pa., Canned Goods.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Noah Webster.
- Question 6. Long time ago.

5550

315. W. Rosenthall, 130 Market St., Philadelphia, Pa., Sporting Goods.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Webster.
- Question 6. Many years ago; before my time.

5551

316. L. Bower, 522 Market St., Philadelphia, Pa., Clothier.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Webster.
- Question 6. Some time ago.

5552

MR. HALE: The entire deposition of this witness is objected to as incompetent, irrelevant and immaterial, being wholly *res inter alios acta*, and not binding upon the plaintiff and as calling for pure hearsay statements of persons not under oath, and who are not produced as witnesses or subjected to cross examination, and as relating

Herman Schultz—Cross.

5553

to a time subsequent to the filing of the suit, and motion is made to strike out the entire deposition on all of the above grounds.

CROSS EXAMINATION by Mr. Hale:

x Q. 65. What is your present business? A. Salesman.

x Q. 66. Salesman for whom? A. For the Bell Publishing Company.

5554

x Q. 66. What does that concern publish? A. Publish greeting cards; New Year's and Christmas greeting cards.

x Q. 67. How long have you been in that employment? A. Been there about two months.

x Q. 68. What was your employment before that time? A. Before that time, real estate business.

x Q. 69. And how long in that business? A. About a year.

x Q. 70. Have you ever been in the employ of the Syndicate Publishing Company? A. No, sir.

5555

x Q. 71. Or the Cupples & Leon Company? A. No, sir.

x Q. 72. Except in this investigation which you have spoken of? A. Mr. Adair is the only gentleman I have met.

x Q. 73. Who is Mr. Adair? A. I don't know. I think he is the manager of the Syndicate Publishing Company.

5556

x Q. 74. Did he employ you on behalf of the Syndicate Publishing Company to make this investigation? A. Yes.

x Q. 75. Was the concern of Cupples & Leon Company, mentioned in that connection? A. No, sir.

x Q. 76. Did you have any general talk with any

Herman Schultz—Cross.

5557

of the persons interviewed at the time you asked them these questions? A. No, sir.

x Q. 77. You said nothing whatever to them except to read to them the questions? A. Introduced myself and told them who I was, gave them my name and read the questions to them and asked them if they would not kindly answer them.

5558

x Q. 78. Did none of them exhibit any curiosity as to — A. number of them, yes sir. A number of them did not know—they would not answer the questions, stating they did not want to display their ignorance.

x Q. 79. About how many people did you interview in addition to the 316, whose answers you have spread upon the record? A. I should right off hand—I could not tell—I should say at least as many again or more. I could not say right off hand.

5559

x Q. 80. Did you ask any of those persons how long they had known of Webster's dictionary? A. No, sir; just put these six questions to them.

x Q. 81. Did that question come up in that connection in any of these interviews? A. No, sir.

x Q. 82. Did any of these persons state they had known of Webster's dictionary for a long time, or words to that effect? A. No, sir.

5560

x Q. 83. None of them referred to previous acquaintance with Webster's dictionary? A. No, sir.

x Q. 84. Did you find any one who had never heard of Webster's dictionary? A. No, sir; they did not—except "I don't know;" "don't know anything at all about it."

x Q. 85. Did you ask any of them whether they had a favorable or an unfavorable opinion of Webster's dictionary. A. No, sir.

x Q. 86. Did any of them express an opinion favorable or unfavorable to Webster's dictionary? A. No—only as the statements were prepared. There are some statements on the cards—I cannot recall them or remember them.

x Q. 87. I presume some of these persons said something to you which was not in answer to those specific questions and which you did not take down; is that correct? A. Oh, no; I took the questions.

5562

x Q. 88. Yes; but some of those persons said something to you not in reply to those specific questions, didn't they? A. Yes, sir.

x Q. 89. And I ask you again whether any of them expressed in any way a favorable or an unfavorable opinion of Webster's dictionary? A. They did not.

x Q. 90. Did any of them ever refer to having at any time used Webster's dictionary? A. Why, yes; they used Webster's dictionary, but a good many of them had them in their desk and wanted to go to their desk to be able to answer, and I told them that would not do—for reference.

5563

x Q. 91. How many such occasions were there? A. I should say probably a dozen or less. I couldn't state exactly just how many. When I would go to them and start in and question them they would say, just wait a minute, and they wanted to go to their desk and get a dictionary, and I told them that would not do, that would not answer. I asked them who was the author and they said they did not know.

5564

x Q. 92. When did you make this investigation, the date of it? A. It was on the last day—the 31st day of May.

5565

Herman Schultz—Cross.

x Q. 93. 1912? A. 1912, yes; for eight days.

x Q. 94. You spent all your time in eight days in traveling to these cities and canvassing these persons? A. Yes.

x Q. 95. Did any of these persons refer to having used Webster's dictionary in their school days? A. No, sir.

5566

x Q. 96. Did you take down their answers verbatim or did you abbreviate them? A. Verbatim as they were given.

x Q. 97. You have referred to having handled certain Webster's dictionaries as premiums. With what publications did you handle them as premiums? A. The American Agriculturist, Orange Judd Palmer, Chicago, and the New England Homestead of Springfield. They are all editions of the American Agriculturist, known as the Eastern and Western editions.

5567

x Q. 98. What was the name of the Webster's dictionary which you handled as a premium in connection with this publication? A. Webster's dictionary.

x Q. 99. What sort of books were they? A. The first ones were 12mo, and the other ones were 16mo or pocket edition dictionary.

5568

x Q. 100. Who was the publisher of these books? A. I could not tell you. It has our imprint. We got the imprint on them for that purpose.

x Q. 101. And during what period of time was that? A. That must be fifteen years ago, I guess.

x Q. 102. That would make it some time in the nineties? A. Some time in the nineties, yes. I could tell that if I was home; but it was about fifteen years ago.

x Q. 103. What book did you handle for the World Publishing Company? A. That was the Webster's dictionary also.

x Q. 104. What kind of a book was that? A. That would be what we call a 12mo book.

x Q. 105. It was not an unabridged dictionary? A. No, sir.

x Q. 106. Who published that book? A. The World Publishing Company.

5570

x Q. 107. Where is the World Publishing Company now? A. I think they are out of business so far as I know. They were opposite the old American News Company on Nassau Street.

x Q. 108. What has become of that book? A. I don't know.

x Q. 109. Is it in the market to-day? A. I think I have a copy at home.

x Q. 110. Is it in the market to-day? A. I could not tell you. The book may be in the market. Of course, the title may be changed, as they do, you know. The plates may have been sold and some other publisher taken it up—something of that kind—I could not say.

5571

x Q. 111. Is that at all usual in the trade? A. It is the usual thing, yes. The same way with medical dictionaries and all kinds of books. They are changed from time to time and sold.

x Q. 112. Will you please fix the date which you sold that book as a premium for the World Publishing Company? A. I could not fix the date.

5572

x Q. 112. Are you certain it was prior to the year 1889? A. Yes.

x Q. 113. What enables you to be certain of that fact? A. Because at the time we offered that

5573

Herman Schultz—Re-Direct.

book as a premium we were at 245 Broadway, and we moved to 751 Broadway, and we didn't use it up there—either on Lafayette Place or Fourth Avenue—we only used it at 245 Broadway. I could not give you the exact date.

x Q. 114. For how long a time did you distribute that book? A. Probably off and on for two or three years. I could tell you exactly. I have a book home, I think—I am sure I have.

5574

x Q. 115. Have you a copy of that book in your possession? A. I think I have. I won't be sure of it.

x Q. 116. Will you send it here so that the same may be offered in evidence? A. Yes.

MR. HALE: The previous objection to the testimony of this witness is renewed, and motion is made to strike out the entire deposition upon the grounds stated.

5575

RE-DIRECT EXAMINATION by Mr. Carroll:

Re-D. Q. 117. What reasons did these persons give for not answering who did not answer the questions?

MR. HALE: I object to that as incompetent, irrelevant and immaterial.

5576

A. Those of the better sort—I should judge they were better off in worldly affairs—they did not want to display their ignorance. To one in particular I said, "May I ask you how many real estate offices in Philadelphia?" "I don't know; I have some respect, I don't want to reply." They said they didn't want to display their ignorance. A good many wanted to know what purpose I wanted this information for, "What is it for, and what is it all about."

August E. Eckle—Direct.

5577

ReD. Q. 118. And when you would not tell them they refused to answer? A. They refused to answer.

DEPOSITION CLOSED.

Signature of witness waived by consent.

Adjourned to June 12th, 1912, at 11:00 o'clock
A. M.

5578

NEW YORK, June 12th, 1912.
11 o'clock A. M.

Met pursuant to adjournment.

Present: Counsel as before.

AUGUST E. ECKLE, a witness called by and on behalf of the defendants, having been first duly cautioned and sworn, testified as follows:

5579

DIRECT EXAMINATION by Mr. Carroll:

Q. 1. What is your age? A. Forty-eight.

Q. 2. Where do you reside? A. 518 West 84th Street.

Q. 3. What is your occupation? A. Books and stationery.

Q. 4. How many years have you been in the book business? A. Thirty-five—about thirty-five years.

5580

Q. 5. What has been your general experience in the book business? A. Salesman, buyer, manager and proprietor.

Q. 6. Have you, during practically all of those

August E. Eckle—Direct.

5581

thirty-five years from time to time sold dictionaries yourself over the counter? A. Yes.

Q. 7. During practically all of those thirty-five years, therefore, you have come in personal contact with retail customers? A. Yes.

Q. 8. What concerns have you been connected with? A. With Brentanos in New York, Washington and Chicago, with Siegel-Cooper's, New York, and Abraham & Strauss, Brooklyn.

5582

Q. 9. Have you now your own store? A. I have.

Q. 10. Where is that? A. 1 West 125th street.

Q. 11. Have the stores where you have been employed all carried dictionaries of various kinds? A. Yes.

Q. 12. And among other dictionaries they have carried Webster's dictionaries? A. Yes.

Q. 13. Do you, in your own store, carry dictionaries of various kinds? A. Yes.

5583

Q. 14. And have you, among other dictionaries, carried Webster's dictionaries? A. Yes.

Q. 15. Among the Webster's dictionaries which you have known, what are the names of some of the publishers? A. Of the various dictionaries that are known?

Q. 16. The various Webster's dictionaries? A. Laird & Lee, the Saalfield Publishing Company. Merriam, Cupples & Leon, and Winston, I believe—there are a number of others—like Hill—that is now published by MacKay.

5584

Q. 17. From your experience during the past thirty-five years as a retail seller of dictionaries, will you state what the ordinary retail customer asks for when he comes in to buy a dictionary? A. Dictionary.

Q. 18. About what proportion of the custo-

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5585

mers desiring a dictionary come in and ask for simply a dictionary? A. Three-quarters.

Q. 19. What do the other quarter ask for? A. Standard dictionary, International dictionary. Generally, various dictionaries that have been recommended to them—Worcester's dictionary.

Q. 20. Of this one-fourth who ask for a Webster's dictionary, for example, what further requirements do they make? A. Repeat that again, please.

5586

Q. 21. I will withdraw the question. Is it a fact that a large proportion of this other fourth which you have spoken of ask for a dictionary simply by some general term, like Webster's dictionary, Standard dictionary, and Century dictionary? A. Yes.

Q. 22. What proportion of the total number of customers who come in to buy a dictionary ask for a dictionary by any more particular title than Standard dictionary or Webster's dictionary? A. What particular proportion?

5587

Q. 23. Yes. Well, there would be that remaining quarter. Three-quarters of the people would mention the fact when they come in and ask for a dictionary, and the remaining quarter ask for some specified dictionary.

Q. 24. You misunderstand the question. You have already testified that three-fourths of the customers ask simply for a dictionary; that about one-fourth have some more particular requirement than simply a dictionary, and ask for dictionaries by some general term, like Webster's dictionary, or Standard dictionary? A. Yes.

5588

Q. 25. What I want to find out from you now is: What part of that remaining quarter ask for a dictionary by some particular title, like G. & C.

5589

August E. Eckle—Direct.

Merriam Company's New International or Funk & Wagnalls Standard or Lippincott's Worcester's? A. I should say—I could not answer that.

Q. 26. Do most of that remaining quarter come within this special or particular class? A. Yes. I don't know what proportion of that thing is. If they come in and ask for a Century dictionary, that is what they want.

5590

Q. 27. If they come in and ask for a Webster's dictionary, what do they want? A. They want a Webster's dictionary.

Q. 28. Do you understand what they mean when they simply say, "Webster's dictionary?" A. As a rule when they ask for a Webster's dictionary, they mean a dictionary of the English language. You asked me if I knew what they mean.

5591

Q. 29. If one of this remaining quarter comes in and asks for a Webster's dictionary, what do you show him? A. Show him what we have in stock—various kinds.

Q. 30. Various kinds of what? A. Of Webster's dictionaries.

Q. 31. When a customer comes in and asks for a Webster's dictionary, do you understand him to mean a Webster's dictionary published by any particular publisher? A. No.

5592

Q. 32. When a customer comes in and asks for a Webster's dictionary, how does he as a rule select between the Webster's dictionaries published by various publishers which you show to him? A. I can explain that fact, if a man comes in for a Webster's dictionary—what we have in stock, we generally take one out there and show it to him, and as a rule his decision is based upon his likes as far as the printing is concerned, the binding and the price.

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5593

Q. 33. Is it a usual thing for a customer to come in and ask for a dictionary by such a particular title as Funk & Wagnall's Standard or Lippincott's Worcester? A. Is it usual?

Q. 34. Yes. A. Well, I will answer that by saying that it is not general.

Q. 35. About what proportion of the whole buyers of dictionaries ask for a dictionary by a particular detailed title? A. About a quarter.

5594

Q. 36. Then, you wish to correct your earlier statement, which was, that of that quarter you spoke of a large proportion do not mention any more detailed title than simply Webster's dictionary or Standard dictionary?

MR. HALE: Objected to as leading and an attempted cross examination of defendant's own witness.

MR. CARROLL: The desire is simply to bring out what is in the witness' mind and have the witness understand the questions which are put to him.

5595

A. On that first question—three quarters of the people simply come in for a dictionary. The balance—the other quarter come in for some specified dictionary. I believe that answers that last question.

Q. 38. About what part of the remaining quarter come in and ask for simply Webster's dictionary? A. Well, that I could not answer, because they are just as liable to ask for a Century or a Funk & Wagnalls or an International—that is, any of the special ones—for special reasons they want one of those dictionaries.

5596

Q. 39. About what proportion of that remaining quarter come in and ask for a Webster's dic-

5597

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tionary by some more particular title, like Ogilvie's Imperial or Merriam's International, or something of that kind? A. What proportion of the—

Q. 40. Of that remaining quarter?

MR. HALE: The question is objected to as asking the witness to guess.

5598

MR. CARROLL: The question is directed to discover the experience of this witness, and from his experience he is able to divide the general class of customers, into certain special classes.

A. I cannot give the proportion of the remaining quarter. I can explain it, can I?

5599

Q. 41. Yes. A. Because, as I said before, they are just as liable to come in and ask for a Student Standard or one published by Funk & Wagnalls, or an International, or the Imperial dictionary—just as liable to do it. I never gave it a study about the proportions. It surely would be a guess.

Q. 42. What do you do when a customer comes in and asks for a dictionary? A. Show them a dictionary from the stock.

Q. 43. Do you show him all the dictionaries you have in stock? A. No. Will I explain more fully?

5600

Q. 43. Surely. A. A customer comes in and asks for a dictionary. Generally the first thing we go down the shop and show it to him. If he is not satisfied we show him another—show him different kinds. Of course, if we show him a dictionary, and he says, "I will take it," why, that ends it.

Q. 44. Where you show customers more than one dictionary, how do those usually determine

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between those shown to them, which one they will take? A. My experience has been that it is based a great deal upon the price that the party wishes to pay. Naturally a customer will look at the print, the binding and the price.

Q. 45. Do these three-fourths of the dictionary customers ever show any interest in the publisher of the dictionary? A. Some.

Q. 46. How do they show that interest? A. They will ask, "Have you got a dictionary published by Funk & Wagnall, the Standard Dictionary, published by Funk & Wagnall," or one of the special dictionaries they ask for.

Q. 47. I think you misunderstood my question. I therefore repeat the question: "Do these three-fourths of the dictionary customers ever show any interest in the publisher of the dictionary," and I ask you to state first whether you misunderstood that question before? A. I did. I misunderstood the question before.

Q. 48. You therefore wish to change your answer to it? A. I do.

Q. 49. What is your present answer, now that you understand the question? A. They do not.

Q. 50. What did you think I referred to? A. Referring to the question of the remaining quarter of the people who come in and buy dictionaries.

Q. 51. Would you say that as many as half of the remaining quarter who come in ask for just a Webster dictionary.

MR. HALE: This leading form of examination is objected to.

A. I would not.

Q. 52. Do any of that remaining quarter come

5605

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in and ask for a dictionary by the general title, "Webster's Dictionary"? A. They do.

Q. 53. Do any appreciable proportion of that remaining quarter ask for a dictionary by the general title of Webster's dictionary?

MR. HALE: Objected to as leading.

A. Yes.

5606

Q. 54. About what proportion of them? A. That I could not say. There are some. That is the only way I can answer that.

Q. 55. What do the rest of them ask for? A. The rest of the quarter?

Q. 56. Yes? A. Ask for some specified dictionary.

Q. 57. When they ask for simply a Webster's dictionary, what do you show them? A. The ones we have in stock.

5607

Q. 48. When you show them the Webster's dictionaries which you have in stock, do they evince any interest in the publisher of those various Webster's dictionaries? A. The remaining quarter?

Q. 49. The persons who come in and ask simply for a Webster's dictionary, do they evince—those are the ones we are talking about now? A. Yes.

5608

Q. 50. Do they evince any interest in the publisher of the various dictionaries which you show them? A. No.

Q. 51. Where a customer comes in and asks for a dictionary by some particular title, like Ogilvie's Imperial, or Merriam's International, or Funk & Wagnalls' Standard, can you sell them any other book, or do you try to sell them any other book?

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5609

MR. HALE: I object to that as incompetent, irrelevant and immaterial.

A. We don't try.

Q. 52. Have you recently made a special investigation of the public understanding of the word "Webster" in the title of dictionaries? A. I have.

Q. 53. What was the method adopted by you in making that investigation? A. Going to the person I met and asking them if they would kindly give me what knowledge they had of Webster's dictionary, and then I would ask them certain questions. 5610

MR. HALE: This question and answer and the line of examination which it apparently begins, is objected to as incompetent, irrelevant and immaterial; also as calling for hearsay statements of unnamed and uncalled persons who are not subjected to cross examination; also as a transaction with third persons not in the presence of the defendants, and not binding upon the defendant in any way. 5611

MR. CARROLL: IT IS STIPULATED that this objection should apply to all questions and answers upon this line without being specifically repeated to each.

Q. 54. What were those questions? A. 1. Do you know who is the publisher or who are the publishers of "Webster's Dictionary"? 2. When you hear or see the name "Webster" on a dictionary does it indicate to you a Dictionary gotten out by any particular publisher or at any particular place? 3. Do you know any city or cities where 5612

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5613

any "Webster" dictionaries are published? 4. Do you know of any series of succeeding rewritings of "Webster's" dictionary gotten out by any one publisher? 5. Who do you think wrote the definitions and fixed the spelling of the words to be found in the "Webster's" dictionaries you have known about? 6. When do you think those definitions were written and that spelling fixed?

5614

Q. 55. How did you select the persons examined? A. At random.

Q. 56. In what towns did you select them? A. In Bridgeport, Danbury, Meriden, New Britain, Waterbury and New London.

Q. 57. What did you tell them about the purpose of the questions? A. That I wished to gain facts or statistics regarding the Webster's dictionaries, what the knowledge people at large had of Webster's dictionaries.

5615

Q. 58. Did you indicate in any way what answers you wished to get to the questions? A. I did not.

Q. 59. Did you receive any instructions as to the method of conducting the investigation? A. I did.

Q. 60. And was that in the form of a letter? A. In the form of a letter, yes.

Q. 61. Have you a copy of that letter? A. I have. (Produces letter).

5616

Q. 62. Is this the letter (handing)? A. That is the letter.

MR. CARROLL: I offer it in evidence.

MR. HALE: Objected to upon all the grounds stated in the reserved objection, and upon the further ground that evidence

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561

cannot be made for one party in that manner.

MR. CARROLL: Subject to that objection, it is stipulated that the letter may be set forth in full in the record. The letter is as follows:

May 29th, 1912.

Mr. August E. Eckle, 1 West 125th Street, New York.

5618

Dear Sir: In connection with your investigation for the Syndicate Publishing Company, please remember that your testimony can only be of value to the Court in determining what the term "Webster's Dictionary" means to the general public, if you obtain your special knowledge and information in an absolutely fair and impartial manner. Be careful to ask the questions which have been prepared for you exactly in the order indicated and in the same exact words in each case. If possible obtain the answers from persons picked at random in the various towns visited without explaining the purpose of the question. In other words, do not in any way suggest to them the kind of answer which you want them to make. If necessary you can say you are obtaining statistics concerning the popular understanding of the word "Webster." In each case write down at once the name, address and occupation of the person questioned and the answer to each question. Include in your record without except the answers of all of the persons whom you question, as well those who answer unfavorably as those who answer favorably.

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In truth your purpose is to collect accurate sta-

5621

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tistics for the Court as to the meaning which the general public attaches to the word "Webster" in the title of a dictionary.

Very truly yours,
(Signed) Gould & Wilkie,
by Lauren Carroll.

5622

Q. 63. Did you follow those instructions exactly? A. I did.

Q. 64. About how many people did you examine? Between two and three hundred.

Q. 65. Did all of them answer those six questions? A. No.

Q. 66. About how many of the persons whom you approached gave you answers to the six questions? A. Can I answer that by making an explanation?

5623

Q. 67. Any way you want to? A. I saw between two and three hundred people, and got a great many of them, and took records of only part of them. I make mention of that by way of an explanation.

Q. 68. How many of the people whom you approached answered the six questions which you asked them? A. I have a record of—

5624

Q. 69. I am not asking you what you have a record of. I am asking you how many answered the questions? A. About seventy-five per cent of the people I saw.

Q. 70. How many in numbers was that seventy-five per cent? A. I should say about one hundred and seventy-five.

Q. 71. Did you keep a record of all those answers? A. I did not.

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5625

Q. 72. Why did you not? A. For the reason it was a misunderstanding. I wanted the name, address and occupation of everybody that I approached, and I only kept a record of those that I received their name and address and occupation.

Q. 73. How many did you keep a record of? A. Sixty-one.

Q. 74. How did those sixty-one differ from the other one hundred and seventy-five? A. About the same answers. 5626

MR. HALE: The answer is objected to as being a mere conclusion of the witness, in addition to the other grounds specified.

Q. 75. From your examination of these one hundred and seventy-five persons, some of them named and some of them unnamed, who gave you answers to the six questions set forth above—will you state whether or not any of them knew the name of the publisher or publishers of Webster's dictionaries? A. Some of them mentioned names. 5627

Q. 76. About how many of the hundred and seventy-five mentioned names? A. I should judge about ten per cent.

Q. 77. About how many in numbers? A. That would be seventeen—about.

Q. 78. What names did they mention?

MR. HALE: Objected to upon the grounds previously stated and upon the further ground that it calls for hearsay testimony of a mere guess of unnamed persons. 5628

A. Rand & McNally, Lee, Miles.

Q. 79. Did any of them mention the name of

5629

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Merriam Company? A. Say, I will add Merriam to that last question—once.

Q. 80. From your examination of these persons are you able to state whether or not the general public know the name of any city or cities where Webster's dictionaries are published? A. I am.

Q. 81. Does the general public know? A. They do not.

5630

Q. 82. Did any of the persons examined by you name any city or cities where Webster's dictionaries are published? A. They did.

Q. 83. What cities did they name? A. New York, a firm in Springfield, Hartford, Connecticut, Philadelphia, South Lancaster.

Q. 84. How many answered a firm in Springfield? One.

5631

Q. 85. From your examination of those persons can you state whether or not the general public knows of any series of succeeding rewritings of Webster's dictionary? A. I can.

Q. 86. Does the general public know of any series of succeeding rewritings of Webster's dictionary? A. They do not.

Q. 87. Did any one person examined by you state that they knew of such a series? A. No.

5632

Q. 88. From your investigation will you state who the general public thinks wrote the definitions and fixed the spelling in the Webster's dictionaries which they have known about? A. Webster.

Q. 89. Did any of the persons examined by you answer anything different from Webster? A. No.

Q. 90. Is that so without exception? A. Well, when I say a good many people could not answer it, they could not give the question—they could

not think of anything of that nature; and only those that answered that question, they gave it as a general thing, Webster. Oh, yes, I would like to correct that again. There are some other names and ideas that they gave, but the general run was Webster.

Q. 91. About what date does the general public think the definitions and spelling of Webster's dictionaries were written and fixed? A. A long time ago, running from twenty-three to eighty years.

5634

CROSS EXAMINATION by Mr. Hale:

x Q. 92. Did any of these persons interviewed mention the Syndicate Publishing Company as the publisher of Webster's dictionaries? A. Not one.

x Q. 93. Did any of them mention Cupples & Leon Company as a publisher of Webster's dictionaries? A. No.

x Q. 94. The vast majority simply did not know the name? A. Did not know the name.

5635

x Q. 95. Of the publisher of any Webster's dictionary? A. Yes.

x Q. 96. You have mentioned that some of these people expressed their ideas as to who composed the literary contents of the Webster's dictionary, meaning other than that they were written by Webster. What ideas did they express? A. What was my answer to the question?

x Q. 97. (Answer repeated as follows) "Well, yes, I would like to correct that again. There are some names and ideas that they gave; but the general run was Webster." A. Yes. Now, please, the question.

5636

x Q. 98. I want to know the other part of it? A. There was other names. "Webster's idea; Webster wrote some of them"—some of the

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637

answers I got. "A couple of men wrote that." "Daniel Webster." "Never gave it a thought." "No idea." "Some men in Massachusetts." Those are some of the answers I got.

x Q. 99. How did you come to make this investigation? A. At the request of the Syndicate Publishing Company.

x Q. 100. And you were paid for it, of course? A. Yes.

5638

x Q. 101. How much time did you spend upon it? A. Seven days.

x Q. 102. When? A. During the past week.

x Q. 103. With whom did you have any conversation as to this proposed investigation by you? A. With whom?

x Q. 104. Yes. A. Mr. Adair.

x Q. 105. Of the Syndicate Publishing Company? A. Of the Syndicate Publishing Company.

5639

x Q. 106. And he instructed you as to what was wanted? A. He—yes, my instructions came through from Mr. Carroll then. He referred me to Mr. Carroll. Simply wanted to know if I would go out on this investigation.

x Q. 107. Have you ever had any business with the Syndicate Publishing Company? A. No.

5640

x Q. 108. Ever handle any of their books? A. I might have some years ago; not lately. I don't recall it. You know, they have been publishing right along a great many things. That was way back.

x Q. 109. How did you come to be selected by Mr. Adair to make this investigation? A. I was sent for.

x Q. 110. By whom? A. I was sent for by Mr. Leon.

x Q. 111. Of the firm of Cupples & Leon? A. Of the firm of Cupples & Leon.

x Q. 112. Have you done business for that firm?
A. I have done some. At least, I have done business with every other firm in the country.

x Q. 113. Have you ever had any other business connection with that firm than selling their books?

A. Yes, buying and selling their books, that is all.

x Q. 114. Are you personally acquainted with the members of that firm? A. Like every other firm I had business with that is in the book business.

5642

x Q. 115. How did Mr. Leon come to request you to make this investigation?

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial, this witness having no knowledge of how Mr. Leon came to request him.

A. Simply coming in contact with him for years as a member of the firm.

5643

x Q. 116. And Mr. Leon of the Cupples & Leon Company referred you to Mr. Adair of the Syndicate Publishing Company? A. Syndicate Publishing Company. We had no conversation about anything at all; simply asked me to go over there and wanted to know if I had a few days time to spare.

x Q. 117. You have named several books which use the name "Webster" which were not published by the Merriams, and among others you name the book of the Cupples & Leon Company? A. Yes.

5644

x Q. 118. What is the name of that book? A. Webster's New Century.

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5645

x Q. 119. How long have you known of that book? A. About five years; four or five years.

x Q. 120. Have you handled it for that period of time? A. Off and on, yes.

x Q. 121. What are the names of the Laird & Lee books, if you know? A. I could not tell you off hand.

5646

x Q. 122. The book published by Hill which you say is now handled by McKay was a small vest pocket dictionary? A. Yes.

x Q. 123. Was any change in the title made when Mr. McKay took it over? A. I don't think so.

x Q. 124. In your book business, have you bought your stock of Webster's dictionaries from the publishers or has someone else done that for you? A. Publishers or through job lots—which-ever way it came.

5647

x Q. 125. Therefore, you are familiar with the names of the publishers of the various dictionaries? A. Yes.

x Q. 126. You have a special familiarity in that matter which the average customer or purchaser does not have? A. Sure.

x Q. 127. How many calls did you have for Webster's dictionary? A. Very few.

x Q. 128. And that has been true for a period of years? A. Yes.

5648

x Q. 129. I presume you have vastly more inquiries for a Webster's dictionary than you have for a Worcester's dictionary? A. Yes.

x Q. 130. You have stated that customers frequently come in and say at first that they merely want a dictionary. In subsequent conversation with that class of customers, do they sometimes indicate that they are interested in Webster's dic-

tionary or mention the name "Webster?" A. Yes.

x Q. 131. What is the course of procedure when they inquire about a Webster's dictionary? A. Show them what we have.

x Q. 132. Both those published by Merriam and those published by other concerns? A. Immaterial.

x Q. 133. Would you explain the difference between them? A. If they should—if a customer should ask that, by all means.

5650

x Q. 134. If a customer should ask what? A. If there is any difference.

x Q. 135. Then, what would you explain? A. Explain the publisher.

x Q. 136. If they do not ask that, then what do you do? A. Simply let them choose for themselves.

x Q. 137. In other words, in that class of cases you allow them to select the book, which in style of print, binding and price meets with their approva? A. Yes. A man might ask my opinion of a certain dictionary and I would give him my opinion to the best of my knowledge, whatever the dictionary was.

5651

x Q. 138. I presume purchasers are interested in the literary excellence of the contents of the dictionaries? A. They do as a rule. They buy a dictionary as a rule simply for the spelling. I am taking about the average people now—simply to get the definition of it.

5652

x Q. 139. I presume they want the definition and spelling to be accurate and correct, according to good usage? A. That is presumably so, that everybody wants everything is correct. If you want a book you want it well-bound. It is nat-

August E. Eckle—Cross.

5653

ural—and the print and paper also. They look at that also.

x Q. 140. I presume the average purchaser is not qualified to be a critical judge of such matters? A. Yes; you are right.

x Q. 141. He therefore buys a dictionary very largely upon faith as to what he will find in it? A. Yes.

5654

x Q. 142. Do you ever meet with customers who prefer the Standard dictionary of Funk & Wagnalls to the Merriam dictionary? A. I do, and vice versa.

x Q. 143. I presume some prefer the Century? A. Yes.

x Q. 144. And very few Worcester's? A. Very few.

5655

x Q. 145. Does the average purchaser know that there is any distinction between the various dictionaries published under the name of "Webster?" A. No.

x Q. 146. Are you the Mr. Eckle who made an affidavit on behalf of the defendant in this case? A. I am.

x Q. 147. In that affidavit, which is verified the 27th day of February, 1912, I find the following statement:

5656

"No one could properly associate a publisher with the title of a dictionary, the title applying rather to the contents, that is, to the product of the editor's or compiler's mind." Is that statement true?

MR. CARROLL: I object to that question, inasmuch as it begins the quotation in the middle of a sentence, and the question should be restated so as to include the whole sentence.

August E. Eckle—Cross.

5657

MR. HALE: I will make this statement—not as a question. The only words omitted were the three words, “In Deponent’s mind;” and if counsel wishes to suggest that the opinion of his witness is not in accordance with the facts, of course, there is no objection to his doing so.

A. That is true, brought down by my experience and my contact with the general public.

5658

x Q. 148. In that same affidavit did you express the opinion that “None of the dictionaries which are now being published and sold by any one of the various publishers could be properly considered a genuine Webster’s dictionary?”

MR. CARROLL: I object to the form of the question, inasmuch as it does not fully state the sentence from which it is taken, and on the further ground that the meaning of the words are entirely varied by the introduction of that sentence, which is: “Under this definition of a genuine Webster’s dictionary, none of the dictionaries,” and so forth.

5659

A. Yes.

x Q. 149. I will quote the whole of the paragraph upon this subject from your previous affidavit: “That deponent has never heard the term “Genuine Webster’s Dictionary” used in the trade. He therefore does not know exactly what it might mean. It probably would mean, however, one of the original dictionaries which was entirely prepared by Noah Webster himself. This would seem to be the only dictionary which could be called genuinely “Webster’s.” Under this definition of a genuine Webster’s dictionary, none of

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August E. Eckle—Cross.

the dictionaries which are now being published and sold by any one of the various publishers could be properly considered a "Genuine Webster's dictionary." Is that your present opinion?
A. It is.

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x Q. 150. How did you come to express an opinion upon what constitutes a genuine Webster's dictionary? A. It has always been of large interest to me in discussing it at various times. I dare say that is how it was.

5663

MR. CARROLL: It is stipulated upon the record that counsel for defendant asked this witness the question as to whether or not there was the term "Genuine Webster's dictionary" used in the trade. That term was suggested to him by the examination of the complainant's witnesses, the term having been used in the questions of complainant's counsel.

MR. HALE: Complainant has nowhere suggested that the phrase "Genuine Webster's Dictionaries" is a trade term.

x Q. 151. In other words, it has been a question in your mind whether there were both genuine and bogus Webster's dictionaries; is that correct?
A. That did not enter my mind.

5664

x Q. 152. What did enter your mind upon the question of genuineness? A. Genuineness—simply the original Webster's dictionary.

x Q. 153. And do you mean to say that it never occurred to you that some dictionaries might be genuine Webster's dictionaries and some not?

MR. CARROLL: Objected to inasmuch as it has already been stated in the affidavit

August E. Eckle—Re-Direct.

5665

what this witness considers as a genuine Webster's dictionary.

A. Yes, certainly.

x Q. 154. That question did occur to your mind? A. Why, surely.

x Q. 155. And you answered it in the manner quoted in your affidavit; is that correct? A. Yes.

x Q. 156. And that is altogether your own opinion on the question? A. Yes.

5666

x Q. 157. Do you recollect any instance where any customer ever asked for a Webster's dictionary of the Merriam publication? A. That is probable.

x Q. 158. That does occur? A. Oh, yes.

x Q. 159. Not infrequently? A. Not infrequently.

x Q. 160. Do you ever explain to a customer any difference between the Webster's dictionaries of the Merriam Company and the Webster's dictionaries of other concerns? A. If they ask me to.

5667

x Q. 161. Not otherwise. A. Not otherwise.

x Q. 162. How often are you asked? A. Sel-

dom.

x Q. 163. And you attribute that to the fact that the average purchaser does not see any difference in the question—it does not occur to him? A. I do.

RE-DIRECT EXAMINATION by Mr. Carroll:

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Re-D. Q. 164. What difference do you think there is between Ogilvie's Imperial Webster, for example, and Webster's International?

MR. HALE: Objected to as irrelevant, incompetent and immaterial and not proper re-direct.

5669

August E. Eckle—Re-Direct.

MR. CARROLL: This question is made necessary by the suggested distinction between dictionaries of the Merriam Company and dictionaries published by other publishers which has been attempted to be made by cross examination.

A. Personally I like the Imperial.

5670

Re-D. Q. 165. If any one of the customers had asked you which one of these books you thought was better, which one would you have said?

MR. HALE: Objected to as incompetent, irrelevant and immaterial and dealing with the merit of books not in issue.

A. I would recommend the dictionary that I favored—that is, the Imperial.

Re-D. Q. 166. Did you ever recommend this book to customers? A. The Imperial.

5671

Re-D. Q. 167. Yes. A. Yes.

Re-D. Q. 168. Above the Merriam books? A. Yes, I did.

Re-D. Q. 169. Did that happen frequently? A. Occasionally.

Re-D. Q. 170. Did it frequently happen that customers came in and asked for Merriam's publications? A. They have asked for them.

Re-D. Q. 171. That wasn't frequent, though? A. Not frequent, though.

5672

MR. HALE: Counsel is requested not to lead the witness.

MR. CARROLL: Counsel for complainant has already led the witness so much that it is necessary to lead the witness back to the proper fact.

Re-D. Q. 172. Did any one of the persons examined by you in this last investigation show you a dictionary published by the Syndicate Publishing Company? A. Yes.

Re-D. Q. 173. What were the circumstances of that incident? A. I was trying to get what information I possibly could, and that was one of the cases where they mentioned the fact that what interested them was a dictionary, and when we got through he says, "Here is a dictionary," he says,—*"I got, and it is a good one."* 5674

Re-D. Q. 174. What dictionary was it? A. It was one published by the Syndicate.

Re-D. Q. 175. A. Webster's dictionary published by the Syndicate Publishing Company? A. Yes.

Re-D. Q. 176. Who was that person? A. Mr. Wolmer, I believe.

Re-D. Q. 177. What was his position? A. I could not state exactly his position; but he was in the American Express Company in New London. 5675

Re-D. Q. 178. Among the persons examined by you did those who did not know the name of any publisher of Webster's dictionaries indicate that they associated Webster's dictionary with any particular publisher named or unnamed? A. No.

Re-D. Q. 179. Mr. Hale asked you on cross examination whether there were not vastly more Websters asked for than Worcesters, in the general course of trade. What did you understand him to mean by "vastly"? A. Greatly. 5676

Re-D. Q. 180. Did you mean any more by the statement than that of the one-fourth who named any dictionary at all there were many more who asked for a Webster's dictionary than asked for a Worcester's dictionary?

5677

Robert McKnight—Direct.

MR. HALE: Objected to as incorrectly stating the questions asked and the testimony given, no reference having been made to any one-fourth of anything. The question is also objected to as leading.

5678

A. That can only be explained this way, in that one-fourth we were talking about there were a number of dictionaries asked for. Amongst them there was Webster's, Worcester's, and Funk & Wagnalls and the Century Dictionary, and all these dictionaries combined are asked for more than Webster's dictionary.

DEPOSITION CLOSED

Signature of witness waived by consent.

5679

ROBERT MCKNIGHT, a witness called by and on behalf of the defendants, having been first duly cautioned and sworn, testified as follows:

DIRECT EXAMINATION by Mr. Carroll:

Q. 1. Give your age? A. Forty-seven.

Q. 2. Residence? A. Philadelphia.

Q. 3. More particularly? A. What street?

Q. 4. Yes. A. 703 South 55th Street, Philadelphia.

5680

Q. 5. Occupation? A. Salesman.

Q. 6. Are you a salesman of books? A. No, I would say stationery now, although my business has been books strictly up to within a few months.

Q. 7. What has been your experience in the book business? A. Thirty years.

Robert McKnight—Direct.

5681

Q. 8. During that thirty years, what has your experience been? A. Mostly as manager in connection with the business.

Q. 9. In connection with what business? A. Book business.

Q. 10. Could you name some of them? A. I was connected, for instance, with Siegel-Cooper Company, Chicago; Simpson-Crawford Company, New York; American News Company, New York.

5682

Q. 11. During that thirty years in the book business, did you personally have dealings with retail customers? A. Yes.

Q. 12. Did you during all of that time have in stock in the various stores where you were employed dictionaries of various kinds? A. Yes, sir.

Q. 13. Among those dictionaries were there Webster's dictionaries? A. Yes, sir; both the original and reprints.

5683

Q. 14. Do you remember the names of the publishers of those Webster's dictionaries? A. Yes.

Q. 15. Could you give them? A. Laird & Lee, E. A. Weeks Company, Donahue & Company, American Book Company, Merriams, George Hill—I could give you an endless list. Do you want it?

Q. 16. Yes; all you remember? A. Hurst & Company—I think I will take that back. He ran that under Peabody. He didn't run that under Webster.

5684

MR. HALE: Hill is the last name I have.

THE WITNESS: Yes, George Hill. Then there used to be Alden & Company. That is all I can just recall at present.

5685

Robert McKnight—Direct.

Q. 17. Do you remember what ones of these were what you call reprints? A. There was Donahue there—Hill and Alden—nearly all of them outside of Merriams—no, the Merriam Book Company would not be a reprint, but the rest were.

5686

Q. 18. Were not those books reprints? A. No, they were not reprints. They were made by himself. They were not taken up as reprints. They were small dictionaries.

Q. 19. Were all of Donahue's books which you handled reprints? A. Yes.

Q. 20. Did you ever handle any of Winston's Websters? A. Yes.

Q. 21. Were they reprints? A. No.

5687

Q. 22. From your experience during thirty years, coming in personal contact with retail customers, what does the ordinary person wishing to buy a dictionary ask for? A. For a dictionary.

Q. 23. When a person comes in and asks for a dictionary, what do you show him? A. Well, I ask them up to what price they want to pay. If they want a cheap book, you can show them some of these reprints. If they want a genuine book you show them the standard books.

Q. 24. Like Funk & Wagnalls? A. Like Funk & Wagnalls.

5688

Q. 25. And Lippincott's Worcester? A. Yes.

Q. 26. Where a person comes in and asks for a book by a particular title, do you ever succeed in selling them anything else? A. Yes.

Q. 27. For example? A. For example, suppose they come in and ask—we will sell them the things we can make the most money on. That is the story there.

Q. 28. Have you latterly been dealing in Winston's Webster's dictionary? A. Last Christmas season I sold quite a bunch of Webster's Universal dictionaries, published by the Winston Company.

Q. 29. Was this in Philadelphia? A. That was in Philadelphia, yes.

Q. 30. Was one of the newspaper campaigns in connection with the Syndicate Publishing Company's book being carried on in Philadelphia at that time? A. That was being conducted at that time. 5690

Q. 31. With what paper was it being conducted? A. It was the Philadelphia Press.

Q. 32. Did that campaign of the Philadelphia Press help the sale of the Winston's Webster's which you were dealing with? A. I believe it did, to a pretty fair extent, although we were advertising the other book ourselves; but by comparison we made a large—the folks would come in evidently having seen the advertisement of the Press. 5691

Q. 33. Would some customers come in and ask simply for a Webster's dictionary? A. No; they would come in and ask for the—in that case, in the case in point, they would come in and ask for the book advertised, and then the question would arise, "Is this the book put up by the Press." In that way I discovered I was getting benefit from the Press advertising. 5692

Q. 34. Did you explain to them that that was not the book advertised by the Press? A. I explained to them that that was not the book advertised by the Press. That, of course, was where we brought in salesmanship. We had a better book.

5693

Robert McKnight—Cross.

Q. 35. What finally induced the buyers to take your book? A. I think the price.

Q. 36. What was your price? A. My price was eighty-five cents, against the price of ninety-eight cents of the Press.

Q. 37. And this was after they knew that you were advertising a different book? A. Yes.

5694

Q. 38. From your experience in the book business, will you state whether or not the ordinary purchaser of a Webster's dictionary knows anything about the publisher of the dictionary? A. I don't think they do. I don't think they know anything about it.

Q. 39. Do you think they care about the publisher of the dictionary? A. They do not.

5695

Q. 40. Do you think the average public ever heard of any series of succeeding rewritings of Webster's dictionary gotten out by any particular publisher?

MR. HALE: I object to that as calling merely for a conclusion of the witness, and without first showing any basis for it.

5696

A. I think they have to a certain extent. That is where the thing has been advertised and explained. In the case of dictionaries which I say I sold in Philadelphia there, of course, we exploited it in that way, showing where the additions had been made by various people; but I don't think to any large extent it has come into play with the public.

CROSS EXAMINATION by Mr. Hale:

x Q. 41. While you were engaged in selling books with the several concerns you have mentioned, have you always carried both the Web-

ster's dictionaries of the Merriam Company and the so-called Webster's dictionaries of other concerns?

MR. CARROLL: I object to the form of that question on the ground that the dictionaries called Webster's dictionaries are presumptively Webster's dictionaries; the characterization of them as "so-called Webster's dictionaries" is uncalled for.

5698

A. Yes.

x Q. 42. When did you first begin to handle Webster's dictionaries not published by the Merriams? A. How would you put that—as the reprint books?

x Q. 43. Well, you may say, at the time the reprint books came out, and if you can fix a date, why, give it? A. That came out about '93.

x Q. 44. About how much later did you begin to handle smaller dictionaries under the name of Webster's which were not published by the Merriams? A. About five years later.

5699

x Q. 45. You stated that you handled both original and reprint Webster's dictionaries. What book did you mean by the term "original?" A. That is a book published by the Merriam Company.

x Q. 46. At that time? A. Yes.

x Q. 47. You did not mean by that term one of the earlier obsolete editions of Webster's dictionaries? A. No.

5700

x Q. 48. Do you remember the full specific name as "Webster's International Dictionary" or something of that sort? A. Webster's International.

Robert McKnight—Cross.

5701

x Q. 49. That was the book you referred to by the term "original"? A. Yes.

x Q. 50. Did you have anything to do with buying the book stock for the various concerns with which you were employed? A. Yes.

x Q. 51. And you bought these Webster's dictionaries from the various publishers whom you have named? A. Yes.

5702

x Q. 52. Did the American News Company sell these books at retail? A. Their strictly wholesale price.

x Q. 53. In other words, while you were selling dictionaries for the American News Company you were selling to the trade? A. To the trade, yes.

5703

x Q. 54. You have stated that when a customer wanted a genuine book you would show him a Funk & Wagnalls' Standard—for example—if he wanted a genuine Webster's dictionary, what would you show him? A. Webster's International.

x Q. 55. Do you know how long the Winston concern has been using the name "Webster" in the title of their dictionary? A. I do not, sir.

x Q. 56. That has been a comparatively recent thing, has it not? A. I have handled that dictionary for the last two years, I think, and how long previous to that they have been making that book, why, I could not say.

5704

x Q. 57. Have you any information as to the fact that they published it for a time without using the name "Webster" in connection with it? A. No, I have not.

x Q. 58. Do you know the full title of the dictionaries of Laird & Lee, referred to by you? A. I cannot just recall them at the present time.

x Q. 59. And do you recollect the title of the dictionary of the Weeks Company? A. That was afterwards changed. As I recall that, that was Worcester's—now, I can't just recall that title.

x Q. 60. What kind of a book was it? A. A little vest pocket book.

x Q. 61. And do you recall the title to which that was changed? A. No, I can't just recall that other.

5706

x Q. 62. Do you recall the titles of the Donohue dictionaries? A. I think that was the original.

x Q. 63. You mean a reprint of the expired book? A. Yes.

x Q. 64. The dictionaries of the American Book Company, I presume you know, are dictionaries published by the Merriams? A. They are the Webster books, yes.

x Q. 65. The Hill dictionary was a reprint? A. That was a reprint, yes.

5707

x Q. 66. How about the Alden & Company. A. That was a reprint.

x Q. 67. How long since these reprints have been largely sold in the market? A. How long?

x Q. 68. Yes. A. Well, I commenced to sell them originally about along in 1893.

x Q. 69. And have you sold them continuously since? A. Yes.

x Q. 70. At what prices? A. Various prices.

5708

x Q. 71. The general range, please? A. Well, anywheres from a dollar up.

x Q. 72. Up how far? A. Up to two or three dollars.

x Q. 73. When customers come in and ask for a Webster's dictionary, what is the ordinary course of procedure from that point until the sale

5709

Robert McKnight—Cross.

is effected? A. The question would naturally arise, "What do you want? A small or a large dictionary?"

x Q. 74. And presuming they say they want a small dictionary at a comparatively small price? A. Well, then, some of these cheaper books would be shown.

5710

x Q. 75. You would show them your entire stock and allow them to select for themselves, whichever one they prefer? A. To a certain extent, yes.

x Q. 76. And what are the limitations of that extent? A. Your stock. First, the limitation of stock—when I spoke there about selling that Winston dictionary in Philadelphia, or the Winston's book—there was nothing else there to show.

5711

x Q. 77. Do you explain to the customers asking for a Webster's dictionary that there are various editions or series of it gotten up by different publishers? A. Yes.

x Q. 78. You always explain that? A. Generally explain.

x Q. 79. And do you ever explain to them that the Merriam Company are the long-time established publishers of Webster's dictionaries? A. No, I don't think I do. I don't think that question would arise with us.

5712

x Q. 80. You have stated that in your opinion the average purchaser cares nothing whatever about the publisher of the dictionary which he buys. Is that correct? A. Yes.

x Q. 81. What is it that he does care about? A. The words and definitions.

x Q. 82. In other words, the literary contents of the book? A. The literary contents of the book.

RE-DIRECT EXAMINATION by Mr. Carroll:

Re-D. Q. 83. What requirements does an ordinary purchaser have with respect to spelling and definitions—so-called literary contents of the book? A. Well, it is virtually up to themselves. You will find that possibly what has been up in the minds of purchasers of a good many dictionaries has been discussion of some special word, and they look for that special word, and if they find it there they buy it. I was just about to quote an occurrence that occurred to me last evening. My daughter asked me for the spelling of a word. I said, "Go to the dictionary." She said, "I haven't got a dictionary here. That is at home." I said, "By the way, what is that dictionary that is at home? What one is it?" She said, "I don't know." I said, "You have handled it a good many times. You ought to know what you have handled." She said, "No,"—she didn't know anything about it. "You have always told me when I didn't know the spelling of a word to go to the dictionary and I have been doing it." So, there is really the story of the majority of the purchasers of dictionaries. They want to have it in the house.

5614

5615

Re-D. Q. 84. You mean, they want to have a sort of assurance which will prepare them for the accident of needing the definition of a word? A. Yes.

5716

Re-D. Q. 85. You think this—and correct me if I am not stating your thoughts exactly—that the ordinary buyer of a dictionary has had it suggested to him by some advertising or by some discussion about the definition of a word, that it would be a wise thing to have a dictionary around the

5717

Robert McKnight—Re-Cross.

house, and he goes and gets one for as small a price as possible.

MR. HALE: Objected to as leading.

A. Well, that is really the case.

Re-D. Q. 86. So that what these people want is a dictionary, and not a Webster's dictionary published by some particular publisher?

5718

MR. HALE: Objected to as leading.

A. Well, I don't think that the majority—in fact, I should say nine out of ten people have in mind nothing special in reference to the buying of a dictionary. If they get a dictionary that suits them and the price is right, they will buy it.

Re-D. Q. 87. For how long were you employed by the American News Company? A. Two years as a salesman there.

5719

Re-D. Q. 88. During the rest of the thirty years which you have indicated you were in the book business, were you employed by retail houses? A. Retail houses, yes.

RE-CROSS EXAMINATION by Mr. Hale:

5720

Re-x Q. 89. Are the Webster's dictionaries pretty well known with the general public? A. That is such a general term that to answer that accurately, it would be a hard question. There are so many of these others known as Webster's, both originals, reprints and everything else, that I don't think that really the majority of folks know what they are asking for when they are asking for Webster's. They want a dictionary.

Re-x Q. 90. What is the reputation of Web-

Robert McKnight—Re-Cross.

5721

ster's dictionary as a standard authority? A. Good.

Re-x Q. 91. Does that have any effect on the sales in your opinion; or does that have anything to do with causing customers to ask for Webster's dictionary? A. In some cases.

DEPOSITION CLOSED.

Signature of witness waived by consent.

5722

Adjourned until June 13th, 1912, at 11 o'clock.

NEW YORK, THURSDAY, June 13, 1912.
11 A. M.

Met pursuant to adjournment:
Present: Counsel as before.

5723

The witness being unable to attend at this session an adjournment is taken, by consent, to 3:30 P. M.

Adjourned to same day at 3:30 P. M.

5724

5725

William M. Gray—Direct.

NEW YORK, THURSDAY, June 13th, 1912.
3:30 P. M.

Met pursuant to adjournment.

Present: Counsel as before.

5726

WILLIAM M. GRAY, a witness called by and on behalf of the defendants, having been first duly cautioned and sworn, testified as follows:

DIRECT EXAMINATION by Mr. Carroll:

Q. 1. Will you give your full name? A. William M. Gray.

Q. 2. Age? A. Forty-eight.

Q. 3. Residence? A. New York.

Q. 4. Your more particular address? A. Bay-side.

5727

Q. 5. Occupation? A. Occupation, theatrical manager.

Q. 6. Have you recently made an investigation of the meaning which the general public attach to the name "Webster"? A. I have.

Q. 7. What was the method adopted by you in that investigation? A. I put a series of questions to people who were about to purchase dictionaries.

5728

Q. 8. How did you select the persons whom you questioned? A. I waited at the counter of a newspaper office where the dictionaries were being sold, and as they came there and presented their coupons and money, I questioned them.

Q. 9. Did you indicate in any way before asking the questions, what the purpose of the investigation was? A. I did not.

William M. Gray—Direct.

5629

Q. 10. Did you suggest in any way except by means of the questions themselves what answers you wished to get? A. No, sir.

MR. HALE: It is stipulated that this entire line of the examination of this witness shall be deemed subject to all the objections entered to the similar line of examination in the case of the witness Eckle heretofore examined and that the same need not be specifically repeated. 5630

Q. 11. What were the questions which you asked them? A. "Q. 1. Do you know who is the publisher or who are the publishers of Webster's dictionaries?" "Q. 2. When you hear or see the name 'Webster' on a dictionary does it indicate to you a dictionary gotten out by any particular publisher or at any particular place?" "Q. 3. Do you know any city or cities where any Webster's dictionaries are published?" "Q. 4. Do you know of any series of succeeding rewritings of Webster's dictionaries gotten out by any one publisher?" "Q. 5. Who do you think wrote the definitions and fixed the spelling of the words to be found in the Webster's dictionaries which you have known about?" "Q. 6. When do you think those definitions were written and that spelling fixed?" 5631

Q. 12. How many persons did you question? A. Two hundred and ninety-eight; that is to say, I received answers from two hundred and ninety-eight. 5732

Q. 13. How many more did you question who did not give answers? A. Possibly as many as twenty-five or thirty more.

Q. 14. What reasons did they give for not an-

5733

William M. Gray—Direct.

swering? A. They did not want to be bothered with it; they did not want to give their names and they did not want to appear too ignorant.

Q. 15. Did you receive any instructions as to the method which you should pursue in this investigation? A. I did, yes, sir.

5734

Q. 16. I show you a copy of a letter dated June 1st, 1912, and ask you if that letter contains the instructions which you received? A. Yes, sir, that is the letter.

MR. HALE: The letter is objected to as incompetent, irrelevant and immaterial, upon the grounds stated when the same letter was previously offered.

MR. CARROLL: It is stipulated that subject to these objections, the letter will be set forth at length in the record, and not kept as a separate exhibit.

5735

Said letter is as follows:

GOULD & WILKIE,
Counsellors at Law,
No. 2 Wall Street,
New York.

June 1st, 1912.

MR. W. M. GRAY,
Lamb's Club,

5736

138 West 44th Street, New York.

Dear Sir:

In connection with your investigation for the Syndicate Publishing Company, please remember that your testimony can only be of value to the Court in determining what the term "Webster's Dictionary" means to the general public, if you

William M. Gray—Direct.

5737

obtain your special knowledge and information in an absolutely fair and impartial manner. Be careful to ask the questions which have been prepared for you exactly in the order indicated and in the same exact words in each case. If possible obtain the answers from persons picked at random in the various towns visited without explaining the purpose of the question. In other words, do not in any way suggest to them the kind of answer which you want them to make. If necessary you can say you are obtaining statistics concerning the popular understanding of the word "Webster." In each case write down at once the name, address and occupation of the person questioned and the answer to each question. Include in your record without exception the answers of all of the persons whom you question, as well those who answer unfavorably as those who answer favorably.

5738

In truth your purpose is to collect accurate statistics for the Court as to the meaning which the general public attaches to the word "Webster" in the title of a dictionary.

5739

Very truly yours,

(Signed)

GOULD & WILKIE.

Q. 17. Did you follow these instructions? A. I did.

Q. 18. Exactly? A. Implicitly.

5740

Q. 19. In what city or cities did you carry on this investigation? A. Pittsburg, Cincinnati, Louisville and Milwaukee.

Q. 20. During how many days were you engaged in this investigation? A. Nine days.

Q. 21. Did the persons whom you questioned buy the dictionaries of the Syndicate Publishing

5741

William M. Gray—Direct.

Company at or about the time when you questioned them? A. They bought dictionaries called I believe the Websterian dictionary, which was sold by the newspapers in the various cities, and I believe was published by the Syndicate Publishing Company.

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MR. HALE: The answer is objected to and motion is made to strike it out upon the ground that it appears that these persons purchased a different dictionary from the one involved in this suit, and one having a different name. This is in addition to the general objections which are not waived.

5743

MR. CARROLL: The purpose of this question was simply to show the general class of the persons questioned to belong to that large general class whom it is alleged by complainant were deceived by the sale of defendant's dictionary in its old form.

Q. 22. From your experience in this investigation will you state whether or not the general public know the name of the publisher or the publishers of Webster's dictionaries?

5744

MR. HALE: Objected to upon the further ground that if this line of examination is competent at all, it is only competent in case the witness testifies to what was said to him upon these occasions, and it is not competent for him to draw his conclusions therefrom.

A. I don't believe that the general public knows or cares anything about the publisher of Webster's dictionary.

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5745

MR. HALE: The latter part of the answer is objected to as not responsive and the whole answer is objected to as a mere conclusion.

MR. CARROLL: In order to meet your objection to the last part of the answer, I will ask another.

Q. 23. From your investigation, will you state whether or not the general public cares anything about the publisher of Webster's dictionary? A. From my investigation I should say not.

5746

Q. 24. From your investigation will you state whether or not the general public when it hears or sees the name "Webster" on a dictionary understands it to be a dictionary gotten out by any particular publisher or at any particular place? A. I don't think it does.

Q. 25. From your investigation will you state whether or not the general public know any city or cities where Webster's dictionaries are published? A. The people that I questioned as a rule did not know. There were a few who gave various large cities in the United States, such as Cleveland, Cincinnati, Milwaukee, New York and Boston.

5747

Q. 26. From your investigation will you state whether or not the general public knows of any series of succeeding rewritings of Webster's dictionary gotten out by any one publisher? A. No, it does not.

5748

Q. 27. From your investigation will you state who the general public thinks wrote the definitions and fixed the spellings of the words to be found in the Webster's dictionaries they have known of? A. Most of those that know at all or profess to

5749

William M. Gray—Cross.

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know at all think that Webster did. Some gave Daniel Webster, a few gave miscellaneous publishers, such as—I will have to refresh my memory as to that name—(Witness refers to paper) Syndicate Publishing Company is one, Merriam Company one. There is some other concern here, if I can find it. One man gives Hiene Young, whoever he is. Despatch Publishing Company is another one given. That was in Pittsburg, where the paper, the Despatch was giving out the books. I cannot find that name, and cannot think of the other concerns.

Q. 28. From your investigation will you state when the general public thinks those definitions were written and that spelling fixed? A. Most of them haven't any idea. Those that have think it was from fifty to one hundred years ago. Noah Webster's time, a good many of them say.

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MR. CARROLL: That is all.

MR. HALE: This entire deposition is objected to upon all the grounds of the objections reserved, and as incompetent, hearsay, collected for the purpose of this suit after issue was made, and motion is made to strike it out. Without waiving said objection or motion, complainant will cross examine.

5752

CROSS EXAMINATION by Mr. Hale:

x Q. 29. You say your business is that of a theatrical manager? A. Yes.

x Q. 30. How long have you been a theatrical manager? A. Thirty-five years.

x Q. 31. By whom were you selected and employed to make this investigation? A. Syndicate Publishing Company.

x Q. 32. What person in their employ? A. Mr. Adair.

x Q. 33. Is he the only one with whom you held any communication before starting to make this investigation? A. No.

x Q. 34. With whom else did you have communications? A. Mr. Swift, A. L. Swift.

x Q. 35. Also of the Syndicate Publishing Company? A. Yes.

5754

x Q. 36. Any one else? A. No.

x Q. 37. And you discussed with these gentlemen the nature of the investigation you were to make and what you were to do? A. I did not discuss it with them; they instructed me as to what I was to do.

x Q. 38. When was this investigation made? A. I think it was June 1st.

x Q. 39. It covered then approximately the period from June 1st, 1912, to June 10th, 1912; is that correct? A. That is correct.

5755

x Q. 40. Did you take down verbatim the answers made to the several questions which you have stated you asked these people? A. I did, sir.

x Q. 41. Have you preserved that written record of their answers? A. I have.

x Q. 42. Did you ask any questions of these people other than the six questions enumerated? A. No, sir.

x Q. 43. Did you have any general conversation whatever with these people at the time of interviewing them? A. Previous to interviewing them?

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x Q. 44. Previous or at the time? A. No, sir.

x Q. 45. Nothing whatever occurred then except you read them the questions and took down their answers? A. No, that is not strictly so. This is

5757

William M. Gray—Cross.

what I read them: I would approach a man and say, "Excuse me, sir," as he was purchasing a dictionary, "I have been authorized to get a little data upon the public conception of the meaning of the word 'Webster.' Will you oblige me by answering these questions?"

x Q. 46. That was all you said in any instance?

A. That was all I said; yes, sir.

5758

x Q. 47. In any instance? A. Yes.

x Q. 48. And then you took down the answers they made in cases where they made an answer?

A. Yes.

x Q. 49. Did you discover any person who had never heard of Webster's dictionary? A. No, sir.

x Q. 50. Did any of these persons volunteer any remarks that were not strict answers to the questions and which you did not take down? A. No, sir.

3759

x Q. 51. You did not ask any of these people who were about to buy what you have termed a Websterian dictionary what their opinion of Webster's dictionary as an authority was? A. I don't understand that question.

x Q. 52. (Question repeated) You did not ask any of these people who were about to buy what you have termed a Websterian dictionary what their opinion of Webster's dictionary as an authority was? A. I did not ask any questions, except the questions that were given me which I have just read to you.

5760

x Q. 53. And did any of these people in any connection intimate to you their estimation of Webster's dictionary? A. I think they did after my questions, yes.

x Q. 54. What did they say in that connection? A. They said they thought it was a good dictionary.

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5761

x Q. 55. Anything else? A. Not that I recall.

x Q. 56. Did any of them say anything about the price at which the papers were offering the dictionary? A. I don't recall now, sir, whether they did or not. They might have, and might not have.

x Q. 57. Do you recall any of them saying in substance or effect that a Webster's dictionary at the price asked by the newspaper was a bargain or was cheap or anything to that effect? A. No, I don't recall.

5762

x Q. 58. Did any of these people say anything about having known Webster's dictionary for a long period of time? A. I don't remember that.

x Q. 59. Well, can you say that they did or they did not? A. No, I could not say that either.

x Q. 60. Did any of them allude to having known Webster's dictionary in their school days? A. I think they did, yes, sir; some of them.

x Q. 61. You have stated that in your opinion the general public do not know the publisher of Webster's dictionary; is that correct? A. The general public do not know nor care.

5763

x Q. 62. Do you mean to say that they have no name of a publisher at all in mind or merely that they do not know the accurate and true name of the publisher? A. I don't think they have any idea whatever, sir, as to the publisher's name.

x Q. 63. But in a few instances you discovered that they would hazard the mention of a name which as often as not was incorrect? A. I did not say that.

5764

x Q. 64. Well, what is the fact? A. They mentioned some names of publishers of dictionaries.

x Q. 65. Sometimes did they mention the name of the paper that was distributing the dictionary? A. Yes, sir, in one or two instances.

5765

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x Q. 66. And sometimes did they mention names that you never heard of in connection with dictionaries' publishers? A. One instance, the name I was trying to find. Ivison, Blakeman, Taylor & Company.

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x Q. 67. You do not know, do you, that the old firm of Ivison, Blakeman, Taylor & Company has been merged into and become part of the American Book Company? A. I don't know anything about it.

x Q. 68. Can you think of anything else that any of these people interviewed by you said in a general way about Webster's dictionary? A. No, I did not pay any attention to anything that was said after the questions had been put and answered.

5767

x Q. 69. Your business was simply to obtain answers to the specific questions? A. The specific questions, yes, sir.

x Q. 70. I presume none of these answers were made under oath? A. No.

x Q. 71. You have stated that in your opinion the general public do not care anything about the publisher. Just exactly what do you mean by that answer? A. The portion of the general public which I came in contract with during my trip were after dictionaries, and their attitude indicated to me that they simply wanted a Webster's dictionary, a Websterian dictionary.

5768

x Q. 72. They were more concerned in getting the book which they wanted than in the name of the concern who published that book? A. Yes, sir, that is my opinion.

x Q. 73. And that is what you meant by that answer? A. Yes.

x Q. 74. In reply to your question No. 2 as to

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5769

whether the name "Webster" indicates a dictionary gotten out by any particular publisher or at any particular place, did you obtain any affirmative answers? A. Yes.

x Q. 75. How many? A. Very few. In Pittsburgh I had at least six affirmative answers, that is, the answer was, "Yes;" and in Cincinnati, eight. That is all.

x Q. 76. Did any of the answers indicate that the name "Webster" did mean to them a book gotten out by a particular publisher but one whose name the person did not know?

5770

MR. CARROLL: I object to this line of questions, unless the counsel will put in evidence the particular cards that he has in mind.

A. I don't know what that answer would indicate in that question.

x Q. 77. I show you one of your cards, bearing the name of H. Bentley of Pittsburgh. He answered your question No. 1 with the word "No;" he answered your question No. 2, which relates to whether the name "Webster" indicates any particular publisher as follows: "Yes, by some particular person or persons." Do you recall that instance? A. He undoubtedly answered that way; that is my writing.

5771

x Q. 78. And you did not pursue the inquiry further. A. I did not, sir.

5772

x Q. 79. Did any of the people questioned by you indicate by their answers that the name "Webster" on a dictionary did suggest a dictionary gotten out by a particular publisher? A. Yes, sir.

x Q. 80. How many of them, if you know? A.

5773

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I should say about a dozen in the two hundred and ninety-eight names.

x Q. 81. And did some of them indicate that the name "Webster" indicated to them a particular publisher but were unable to give the name of that publisher? A. I think there was one or two who said they had forgotten the publisher's name. It is on those cards.

5774

x Q. 82. Did any of the persons questioned say that they knew anything about rewritings of Webster's dictionary? A. Succeeding rewritings?

x Q. 83. Anything about rewritings or succeeding editions? A. I think that to that particular question, which is No. 4, the answers were almost invariably "No."

x Q. 84. There were, however, exceptions? A. Possibly one or two. I cannot recall without looking at the cards.

5775

x Q. 85. Did any of them, for example, answer substantially that they knew of rewritings, but did not know who the publishers were? A. I think there was one or two who answered that way; my impression is that there was.

x Q. 86. In answer to question 5 as to who wrote the definitions and fixed the spellings, I presume the great majority answered "Webster, either Noah or Daniel?" A. Yes, sir.

5776

x Q. 87. Did any of them indicate that Webster did so originally? A. Yes, sir.

x Q. 88. Leaving room for the inference that it had been corrected or added to since that time? A. Yes.

x Q. 89. How many such instances? Have you tabulated them? A. I have not.

x Q. 90. There were a considerable number of

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5777

such instances? A. Several, I could not tell you. There were quite a number. I can refresh my memory here from the memorandums on hand.

x Q. 91. Refresh your memory to any extent you want. In other words, quite a few used the words "Webster originally," or words to that effect? A. Yes. "Webster and other great men; Committee of men; any number of people; without Webster"—all this I am quoting. "Various people; competent men; Merriams; and Hiene Young."

5778

x Q. 92. Is that all the list you have? Go on, give all you have.

MR. CARROLL: I object again to this line of examination, unless counsel for defendant will put in all of the cards.

MR. HALE: The witness at present is testifying from his own memoranda made from the cards. I can see no objection to the question. Will you please continue with your summary of the answers to that question.

5779

MR. CARROLL: The cards themselves are the best evidence of what is on them, rather than the witness' memorandum.

MR. HALE: The question did not call for the contents of the cards, but for the answers made. The witness can refresh his recollection from anything he chooses.

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x Q. 93. Please go on with the form of answers made to that? A. I have not any more that I can recall.

MR. CARROLL: I object generally to this whole line of examination, unless counsel

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for complainant will put in the cards himself, inasmuch as they are the best evidence, and inasmuch as counsel for complainant has them in his hands.

5782

MR. HALE: The cards are not the best evidence, being a mere memoranda made by the witness from which he may refresh his memory, and then testify directly to the answers made to him; they are not evidence in any sense.

5783

x Q. 94. Do you recollect any answers in the following forms or substantially to that effect: "Webster at first and some additions and corrections later on;" "All contemporaneous authorities;" "Originally Noah Webster;" "Originally Webster." Do you recollect answers in those forms? A. If they are on those cards, they are correct.

x Q. 95. Do you recollect answers in those forms? A. No, I don't recall the answers.

x Q. 96. I show you a few cards taken from one of your Pittsburgh envelopes?

MR. CARROLL: Again I object to this line of examination unless counsel for complainant will offer all the cards.

5784

MR. HALE: Defendant's counsel may offer them if he deems that they are relevant and material.

MR. CARROLL: Defendant's counsel did not offer them, but inasmuch as complainant's counsel has gone into the matter and picked out particular cards, he objects to complainant's line of examination, unless he will show all the cards.

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5785

x Q. 97. Will you answer the question, please?
A. Those answers on those cards you have given me are correct.

x Q. 98. So some of the people interviewed did answer in that manner? A. Yes.

x Q. 99. How many of them answered in that manner? A. The five that you showed me.

x Q. 100. Any others? A. I don't remember of any.

5786

x Q. 101. Did any of the persons questioned answer your question 1 by saying that Webster was the publisher of the Webster's dictionary?

MR. CARROLL: Same objection.

A. I think they did.

x Q. 102. How many answered that way? A. I could not say without looking at those cards.

x Q. 103. Any considerable number? A. I don't recall.

5787

x Q. 104. Did any of them answer question 1 which asks "Do you know who is the publisher of Webster's dictionaries" simply by saying, "Yes," and without indicating who they believed to be the publisher? A. I think some did.

x Q. 105. In your tabulations or summaries, how did you include that class of answer? A. My tabulations or summaries—what do you mean by that? My cards?

5788

x Q. 106. In answer to Mr. Carroll you gave a general statement of the results of your inquiries with reference to each one of these questions. How did you deal with that class of answers?

MR. CARROLL: Reference to the earlier part of the examination will show that the

5789

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witness testified that the great majority of the general public did not know the name or names of any publishers of Webster's dictionaries.

A. I do not find on these memorandums that I have here any answers of "Yes" to question No. 1.

5790 x Q. 107. Look at that one, for example, and refresh your memory! (Handing witness card) A. Yes, sir, that is correct. My memorandum is not complete here.

x Q. 108. Some did answer question 1 merely by the word "Yes" and afforded no other information? A. I see that one did.

x Q. 109. Do you know whether or not there are any others? A. No, sir, I don't, without referring to the cards.

5791 x Q. 110. How many did you say named the Merriams? A. I don't think I said.

x Q. 111. Well, how many did name the Merriams? A. I could not answer that accurately without going over the cards completely.

x Q. 112. Quite a few answered "Merriams," however? A. I remember of two or three; I am not sure that there are more than that.

5792 x Q. 113. Did any of these people whom you questioned indicate that the name "Webster" on a dictionary would have an influence with them? A. Is that one of the questions that I asked them, you mean?

x Q. 114. I am searching your recollection, and I want to know if any person answered any of your questions in a manner including the statement that the name "Webster" would have influence with them? A. I cannot recall any such remark.

x Q. 115. In answer to your question 2, which relates to whether the name "Webster" indicates a dictionary of a particular publisher, did any one or more say in substance, the name would influence a person; and I show you one of your cards to refresh your recollection (handing witness card)?

A. Yes, sir, L. E. Woessner, 50 Loan & Trust Building, Milwaukee, did.

x Q. 116. Did any of them indicate that Webster was a standard in answer to any of your questions? A. I don't recall that.

5794

x Q. 117. I show you one of your cards to refresh your recollection and ask you to now answer the last question? (Handing witness card) A. Yes, sir, J. Heffernan, 305½ 26th avenue, Milwaukee, answered, "We know Webster is standard" to question No. 2.

x Q. 118. Did any of the persons questioned indicate by their answers to any of your questions that they knew that Webster's dictionary had been revised or changed from time to time by the work of new editors or by editorial staffs? A. Indicate by their answers?

5795

x Q. 119. Yes. A. I did not pay much attention to what their answers indicated.

x Q. 120. Look at this answer to No. 5, and here is another answer to No. 5 (handing witness cards)? A. J. C. Crawford, in answer to question No. 5, said "Noah Webster and staff, and new editions since his time."

5796

x Q. 121. New editors? Just look at it. Isn't that the plural? I don't care how you put it, but just be sure? A. It looks to me like "new editions."

x Q. 122. We will take your word for it. It is your own handwriting? A. H. Hollander, 624

William M. Gray—Cross.

5797

Farwell avenue, Milwaukee, in answer to question No. 5, said, "Noah Webster; after that edited by others."

x Q. 123. I believe you have testified that some of them answered your question No. 2 by merely saying "yes" and without indicating the particular publisher? A. Yes, sir, that is correct.

5798

x Q. 124. In such instances, did you pursue the inquiry and ask them what publisher they had in mind? A. I did not, sir; I was not instructed to do that.

5799

MR. CARROLL: Counsel for the defendant states at this point that it was impossible to foresee what answers would be made to the questions, and it was therefore equally impossible to instruct the investigators what additional questions should be or might be asked in the event of innumerable possible answers.

x Q. 125. Did any of them indicate that the Merriams used to be the publishers of Webster's dictionary? A. I think one man did.

x Q. 126. Did any answer your question No. 4 as to the succeeding rewritings and revisions simply by the word "Yes?" A. I don't recall any such.

5800

x Q. 127. (Counsel hands witness card). Refresh your recollection, please, and answer the question? A. Yes, a policeman, Station No. 1, Milwaukee, who would not give his name, and refused to show his badge, said "Yes" to question No. 4.

x Q. 128. Do you know whether there are any other such instances in this package of cards, only some of which have been shown to you? A.

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5801

You mean where question No. 4 has been answered in the affirmative?

x Q. 129. Yes. A. I don't recall.

x Q. 130. Will you please read the answer made to the 6th question by Lyman G. Wheeler, a lawyer of Milwaukee?

MR. CARROLL: I object to this question again as being an unfair selection of a unique and exceptional card, picked out particularly by counsel for complainant, and insist upon this objection, unless counsel for complainant will also show this witness all the other cards which counsel for complainant holds in his hand, and ask him to refresh his memory from them, so that the whole result of the investigation may appear before the Court.

5802

MR. HALE: Question withdrawn.

x Q. 131. Did any of the persons questioned by you answer your question 1 substantially to the following effect: "G. & C. Merriam used to be?" A. Yes.

5803

x Q. 132. Did any of the persons interviewed by you answer question No. 2 substantially as follows: "It had until recently. I suppose it was all one concern?" A. Yes.

x Q. 133. Did any of these persons answer your question 4 as to succeeding rewritings substantially as follows or to like effect: "I know Webster's Unabridged was followed by Webster's International. I think by same publisher?" A. Yes, Lyman G. Wheeler, of Milwaukee.

5804

x Q. 134. You refer to the individual card handed you and did not run through your entire bunch of cards in making your last answer? A. Yes, sir.

5805

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x Q. 135. Did this same gentleman answer question 5 by saying he did not know, and question 6 by saying that the definitions were written and the spelling fixed, "at no one period?" A. To question 5 he answered "I don't know," and to question 6 he answered "at no one period."

5806

x Q. 136. Please mention the name of any other person questioned by you who answered question 1, "No," indicating that the person did not know who was the publisher of Webster's dictionary, and who answered question 2 "Yes," indicating that the name "Webster" indicated to such person a dictionary gotten out by a particular publisher? A. Mrs. Annette Schrand, 718 Cedar Street, Milwaukee, answered to question No. 1, "No, I do not;" and to question No. 2, "Yes."

5807

x Q. 137. Did any of them indicate that the Merriams wrote the definitions and so forth in answer to question No. 5? A. I don't remember that.

(Counsel hands witness card.)

A. Yes, Joseph Kirkeep, 4119 Floral Avenue, Norwood, Cincinnati, did.

x Q. 138. That gentleman was one of those that gave the name of "Merriam" in answer to question 1 as the name of the publisher, was he not?

A. Yes.

5808

x Q. 139. Will you please state the answers that Isidore Wise of Cincinnati gave to your six questions?

MR. CARROLL: Same objection.

A. "Question 1, Merriam; No. 2, It does to me; it means gotten out by that publisher; 3, No, I

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5809

don't know of any other city excepting Connecticut; No. 4, No, I don't; No. 5, Successive Board of Editors since the time of Noah Webster. No. 6, Fixed in each new edition."

MR. CARROLL: Objection to this exceptional and unique selection by complainant's counsel is renewed.

x Q. 140. Did any of these persons answer any of your questions to the effect that they knew of the book or series, but did not know the publisher? 5810

(Handing witness card.)

A. In answer to question 4, Lawrence Bennett, 631 West 6th Street, Cincinnati, said, "I know of one, but don't know the publisher."

x Q. 141. How many of all the people interviewed answered your question 2 in the affirmative? A. I don't know. 5811

x Q. 142. You, however, have the means of finding out? A. Yes, sir.

x Q. 143. A number did answer it affirmatively, however?

MR. CARROLL: Objected to inasmuch as his witness has already testified that a few did, and that he could not tell the exact number without making a complete count from the cards. 5812

MR. HALE: It is impossible for complainant's counsel to tabulate the witness' results along these lines, and he must therefore leave it to the witness to answer as he sees fit.

5813

William M. Gray—Cross.

x Q. 144. (Question repeated.) A number did answer it affirmatively, however? A. I think a few did; yes, sir.

x Q. 145. Did you take down and preserve a memorandum of every answer given you by every person questioned? A. I did.

x Q. 146. That is of all who consented to answer the questions at all? A. Yes, sir.

5814

MR. HALE: That is all.

RE-DIRECT EXAMINATION by Mr. Carroll:

x Q. 147. When did you take down the memorandum which has just been mentioned by counsel for complainant; immediately after the questions were asked? A. As each question was asked and answered the answer was written down on the card.

5815

x Q. 148. Are these the cards which counsel for complainant has been showing you during his cross examination from time to time? A. Yes, sir, some of them.

x Q. 149. Have you all of those cards with you? A. Yes, sir.

x Q. 150. Are these those cards (showing witness cards)? A. Yes, sir.

x Q. 151. Are those cards in your handwriting? A. Yes, sir.

5816

x Q. 152. By reference to them, can you refresh your memory and state exactly what each one of these persons examined by you answered to the various questions? A. Yes, sir.

x Q. 153. Will you refer to those cards and read into the record the answers of each one examined by you?

William M. Gray—Re-Direct.

5817

MR. HALE: Objected to as incompetent, irrelevant and immaterial, as relating to a transaction between this witness and third persons not in any way binding upon the complainant, as mere hearsay obtained for the purpose of this suit, and obtained from persons who are not produced as witnesses and sworn and subjected to cross examination.

5818

MR. CARROLL: Inasmuch as counsel for complainant has selected at random from these cards certain exceptional and unique ones and used them as a means of refreshing this witness' recollection, it is necessary in order that the Court may have a clear and fair understanding of the result of this examination that all the cards be put in evidence, and they are therefore offered by defendant. They are offered in the manner above set forth; that is to say, the witness is directed to refresh his memory by means of these cards, and to read into the record the answers made by each one of the persons examined.

5819

A.

The copies of the cards produced by the witness Gray are marked in evidence—"Defendants' Exhibit Cards produced by witness Gray, J. A. S. Exr., June 13, 1912."

5820

The text of said cards is printed at this point by consent and is as follows:

5821 *Exhibit: Cards produced by witness Gray.*

The persons, their addresses, occupations and the answers which each gave to the questions are as follows:

PITTSBURG, PA.

1. I. C. Donovan, 7046 Reynold Street, East End.

- Question 1. No.
Question 2. No.
Question 3. No.
Question 4. No.
Question 5. Webster.
Question 6. Not recently.

5822

2. A. A. Johnson, 605 Phila. Bldg., Clerk.

- Question 1. No.
Question 2. No.
Question 3. No.
Question 4. No.
Question 5. Noah Webster.
Question 6. 50 or 60 years.

5823

3. F. W. McLean, 2384 California Avenue, Mufr.

- Question 1. Not now.
Question 2. No.
Question 3. No.
Question 4. No.
Question 5. Daniel Webster.
Question 6. 75 years.

5824

4. W. L. Lindsley, 1121 Milton Avenue, Swissvale, Pa., Salesman.

- Question 1. No.
Question 2. No.
Question 3. New York.
Question 4. No.
Question 5. Noah Webster.
Question 6. 1865 or thereabouts.

Exhibit: Cards produced by witness Gray. 5825

5. L. C. Esderlin, 2553, Penn. Avenue, Mining Engineer.

- Question 1. No.
- Question 2. No.
- Question 3. New York.
- Question 4. No.
- Question 5. Webster.
- Question 6. Years ago.

6. Amoris A. Prohle, Homestead, Stationary Engineer. 5826

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Webster.
- Question 6. About 50 years ago.

7. Wilbert Pierce, Protestant Orphan Asylum, Messenger. 5827

- Question 1. No.
- Question 2. No.
- Question 3. Yes, New York & Chicago.
- Question 4. No.
- Question 5. Webster.
- Question 6. Hard to tell.

8. B. A. Herrod, 406 Brushton Avenue, Bank Clerk.

5828

- Question 1. No, I do not.
- Question 2. Noah Webster.
- Question 3. No.
- Question 4. No, I don't.
- Question 6. I haven't any idea.

5829 *Exhibit: Cards produced by witness Gray.*

9. John A. Hartman, 3138 Allendale Street,
Printer.

Question 1. No, I do not.

Question 2. No, sir.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. Don't know.

5830 10. Chester Wilson, 312 Loreny Avenue, Re-
porter.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I presume by Noah Webster.

Question 6. I don't know.

5831 11. George Matta, 817 Hazel St., Motorman.

Question 1. No.

Question 2. No.

Question 3. No, I don't know.

Question 4. I don't know.

Question 5. Webster.

Question 6. I don't know.

12. Miss L. Claney, 250 5th St.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. Don't know.

5832

Exhibit: Cards produced by witness Gray. 5833

13. Jesse Anderson, 1409 Sheffield St., Teacher.

Question 1. No.

Question 2. No.

Question 3. No, I do not.

Question 4. No.

Question 5. Noah Webster.

Question 6. I don't know.

14. J. F. Gray, 517 Wheeler, Salesman.

5834

Question 1. No.

Question 2. No particular publisher or place.

Question 3. No.

Question 4. No.

Question 5. Don't know anybody in particular.

Question 6. Don't know that.

15. Mrs. R. Fiebler, 1403 Locust St., McKeesport.

5835

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. Couldn't say.

16. A. W. Hanmul, Unity, Plumber.

Question 1. No.

5836

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Don't know.

Question 6. Don't know.

5837 *Exhibit: Cards produced by witness Gray.*

17. Mary E. Hoover, 263 40th St.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Don't know.

Question 6. Don't know.

5838 18. Charles Colombel, 504 So. Lauze Ave., Mechanical Draftsman.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. No, I don't know.

Question 6. I don't know.

19. Miss K. Williams, 1330 Beachview, Stenographer.

5839 Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

20. C. E. Lee, 319 Barnes St., Wilkensbury, Contractor and Builder.

5840 Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

Exhibit: Cards produced by witness Gray. 5841

21. L. B. Hunst, 1262 Finck Avenue, Attorney.

Question 1. No, I don't.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I couldn't tell you that.

Question 6. I don't know.

22. J. F. Murphy, 2418 Butts St., Laborer.

5842

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Dispatch Publishing Co.

Question 6. This year.

23. E. H. Wilson, 37 Grace St., Stenographer.

Question 1. No.

Question 2. Yes.

5843

Question 3. No.

Question 4. No.

Question 5. Don't know.

Question 6. Don't know.

24. Mrs. J. G. Adams, 6922 Hamilton Ave.

Question 1. No.

Question 2. No, indeed.

Question 3. New York.

Question 4. No.

Question 5. All contemporaneous authorities.

5844

Question 6. Most any time.

25. C. P. Gottson, Perrysville Ave., Insurance.

Question 1. No.

Question 2. No.

5845 *Exhibit: Cards produced by witness Gray.*

Question 3. No.

Question 4. I know of a rewriting, but don't know who the publisher was.

Question 5. I suppose Daniel Webster was the original.

Question 6. I don't know; it has been a long time.

5846 26. Harris Wilson, 441 Neville St., Johnstown, Clerk.

Question 1. No, I don't.

Question 2. Yes, I think so.

Question 3. No.

Question 4. I do not.

Question 5. Webster at first and some additions and corrections later on.

5847 Question 6. In recent years.

27. S. B. Brookhart, Bellvue, Pa., Salesman.

Question 1. No.

Question 2. No.

Question 3. No, not distinctly.

Question 4. Do not.

Question 5. Original, Noah Webster.

Question 6. More than 100 years ago.

5848 28. R. K. Fleming, 315 So. Highland Ave., Physician.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Originally Webster.

Question 6. When dictionary was written.

Exhibit: Cards produced by witness Gray. 5849

29. M. M. Mecklen, Rochester, Pa.

Question 1. No.

Question 2. No, only that Noah Webster wrote the first.

Question 3. No.

Question 4. No.

Question 5. Webster fixed the spelling.

Question 6. Way back before I was born.

30. Paul Terhune, Commercial, Pa., Salomon. 5850

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

Question 6. Late years.

31. H. Bentley, 5910 Alder St., Mgr. Rosenbaum & Co., Dry Goods. 5851

Question 1. No.

Question 2. Yes, by some particular person or persons.

Question 3. Don't know.

Question 4. No.

Question 5. It may have been Webster.

Question 6. Some years ago.

32. Barnett Spiro, 16 Leffie Street, Office boy, Rosenbaums. 5852

Question 1. Merriam & Co. I believe.

Question 2. I don't know how to answer that.

Question 3. No. Aside from Merriam & Co.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

5853 *Exhibit: Cards produced by witness Gray.*

33. R. C. Richardson, 1410 Beaver Avenue,
Clerk.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster himself.

Question 6. Don't know. (Ten years).

5854 34. Paul Cramer, 200 N. Diterage Street, at
school.

Question 1. No.

Question 2. No. It doesn't.

Question 3. New York.

Question 4. No.

Question 5. Noah Webster.

Question 6. Civil War time.

5855 35. Geo. Stewart, 4211 Metgate Street, Harness
Maker.

Question 1. No.

Question 2. No.

Question 3. I do not.

Question 4. No, sir.

Question 5. Webster.

Question 6. Boyhood days.

36. Edwin Latchen, Wilson, Pa., Cashier.

5856

Question 1. No, I don't know.

Question 2. I understand Webster was the
first.

Question 3. No, I never thought of it.

Question 4. No.

Question 5. I don't know.

Question 6. " "

Exhibit: Cards produced by witness Gray. 5857

37. Howard Chantham, 308 Homer Street, Office Boy.

Question 1. No, sir.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Don't know.

Question 6. Don't know.

38. W. S. Kearney, 1412 Manor Avenue, Mc-Keesport, Banker, 5858

Question 1. No, I don't.

Question 2. No.

Question 3. No.

Question 4. No, I don't.

Question 5. I never gave that any thought.

Question 6. I haven't slightest idea.

39. Mrs. L. W. Donahue, 279 Bradock Avenue, Turtle Creek, 5859

Question 1. I do not.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I can't answer that.

Question 6. I don't know.

40. C. Bartolde, 27 School Street, Waiter.

Question 1. No. 5860

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Don't know.

Question 6. Don't know.

5861 *Exhibit: Cards produced by witness Gray.*

41. Richard Noll, 706 Fourth Street, News Dealer.

- Question 1. No.
- Question 2. No, it don't.
- Question 3. No. I don't.
- Question 4. No.
- Question 5. I don't know.
- Question 6. Don't know.

5862

42. R. Gabig, 47 Ulysses St., Mt. Washington.

- Question 1. No, sir.
- Question 2. I don't know.
- Question 3. No.
- Question 4. No.
- Question 5. I don't know.
- Question 6. I don't know.

43. Chas. Santer, 3124 Shadeland Ave., Clerk.

5863

- Question 1. No. I couldn't tell you.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. I don't know.
- Question 6. I don't know.

44. E. Lysle, Jemette, Pa., Boilermaker.

5864

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Don't know.
- Question 6. Don't know.

45. Noy; would not give name.

- Question 1. No, sir.
- Question 2. No.

Exhibit: Cards produced by witness Gray. 5865

- Question 3. No.
- Question 4. No.
- Question 5. Don't know.
- Question 6. Don't know.

46. Chas. Bahle, 1539 Hatchey St.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No. 5866
- Question 5. Don't know.
- Question 6. Don't know.

47. Miss Lilly Zimmerman, 1515 Boyle St.,
Stenographer.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. I don't know. 5867
- Question 6. I don't know.

48. E. E. Crumrine, Washington, Lawyer.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Don't know.
- Question 6. No one knows anything about
it at this time. 5868

49. A. Roth, 2156 Center Ave., Barber.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. Dam if I know.

5869

Exhibit: Cards produced by witness Gray.

Question 5. Don't know.

Question 6. Don't know.

50. Mrs. Wm. Benecke, 308 West St., Wilkensburg.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

5870

Question 5. I don't know.

Question 6. I don't know.

51. C. W. Peters, 1421 East Street.

Question 1. Webster.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5: Don't know.

Question 6. Don't know.

5871

52. Thos. Thorne, 414 Independ Street, W. E., Janitor.

Question 1. No.

Question 2. No.

Question 3. England.

Question 4. No. I do not.

Question 5. I don't know.

Question 6. I don't know.

5872

53. A. Smith, 16 Charles St., Clerk.

Question 1. No.

Question 2. No. No particular pub.

Question 3. New York.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

Exhibit: Cards produced by witness Gray. 5873

54. Francis E. Goff, 91 Belveden Street, Crafton.

- Question 1. Webster.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Webster.
- Question 6. I don't know.

55. Russel Brankley, 5334 Wickleff, Clerk.

5874

- Question 1. No, I don't.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Webster.
- Question 6. I don't know that.

56. Mrs. Mary Grine, 305 37th Street, City.

5875

- Question 1. Yes.
- Question 2. No.
- Question 3. No, I do not.
- Question 4. No.
- Question 5. I don't know.
- Question 6. I don't know.

57. O. C. Small, Windy Ghout, Bever, Pa., Messenger.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. Yes, Syndicate Pub. Co.
- Question 5. Webster, I guess.
- Question 6. I don't know.

5876

58. J. C. Biley, 730 Eliver Building, Atty.

- Question 1. No.

5877 *Exhibit: Cards produced by witness Gray.*

Question 2. No, it does not.

Question 3. No.

Question 4. No.

Question 5. Noah Webster, originator.

Question 6. I don't know.

59. J. H. Fisher, 6th Floor, Union Bank Building, Salesman.

5878

Question 1. No, sir, I do not.

Question 2. No, it simply indicates that.

Question 3. No, I do not.

Question 4. No.

Question 5. Noah Webster assisted by others.

Question 6. That I don't know.

60. Mary Hall, 1414 Fifth Avenue.

5879

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

Question 6. Don't know.

61. O. C. Coho, 111 E. Pittsburgh Street, Greensburg, Engineer, Pa. R. R.

5880

Question 1. No, I do not.

Question 2. No, it don't.

Question 3. I do not.

Question 4. No.

Question 5. Noah Webster.

Question 6. I couldn't give that.

62. W. S. Reed, 309 So. Craig Street, Electrician.

Question 1. No, I do not.

Exhibit: Cards produced by witness Gray.

5881

Question 2. No, I can't say it does.

Question 3. I do not.

Question 4. No.

Question 5. Noah Webster.

Question 6. I don't know.

63. Wm. Redling, 320 N. Graham Street, East
End, Cigars.

Question 1. I don't.

Question 2. There's more than one pub-
lisher.

5882

Question 3. No.

Question 4. No, sir.

Question 5. I guess it was Webster.

Question 6. Some time ago.

64. Joseph Beekman, 5137 Butler Street., Jani-
tor in Bank.

Question 1. The "Dispatch," I suppose.

5883

Question 2. The "Dispatch."

Question 3. No, I don't know.

Question 4. No.

Question 5. Webster.

Question 6. Hard question to answer, I
don't know.

65. Miss Alice Fouks, 1528 Rockland Avenue,
Tel. Operator.

Question 1. No, I don't.

5884

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I couldn't say.

5885 *Exhibit: Cards produced by witness Gray.*

66. A. M. Colven, 5754 Howe Street.

Question 1. No, I don't.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know anything about those things.

Question 6. I don't know.

5886

67. Miss Jutte, 5204 Liberty Avenue, East End.

Question 1. No, I don't.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

5887

68. S. A. Xippas, 406 Burger Bldg., Interpreter,
U. S. Immigration Service.

Question 1. No, I don't.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

69. Louis Wall, 314 Sycamore Street, Bar-
tender.

5888

Question 1. No, I don't know.

Question 2. No.

Question 3. I don't know that.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

Exhibit: Cards produced by witness Gray. 5889

70. W. M. Dickson, Cannonsburg, Messenger Agent.

Question 1. No.

Question 2. No, sir.

Question 3. No.

Question 4. No.

Question 5. I don't believe I know.

Question 6. Don't know.

71. Mrs. R. A. Loeffler, 1006 Chestnut Street. 5890

Question 1. No, I do not.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Daniel Webster.

Question 6. Many years ago.

72. J. Milvahill, 2851 Bedford Avenue, Messenger at Hospital. 5891

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Don't know.

Question 6. Don't know.

73. T. S. Walton, 142 Carson Street, Milkman.

Question 1. No.

Question 2. No. 5892

Question 3. No, I don't.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

5893 *Exhibit: Cards produced by witness Gray.*

74. Theodore Braun, 2038 Mountford Avenue.
Laborer.

- Question 1. No, I don't.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. I don't know.
- Question 6. I don't know.

5894 75. Walter Fredrick, 10 Filbert Street, Messenger.

- Question 1. No.
- Question 2. No.
- Question 3. No, sir, I do not.
- Question 4. No.
- Question 5. I don't know.
- Question 6. I don't know.

5895 76. J. R. Ormond, Washington, Pa., Oil Business.

- Question 1. I couldn't tell you.
- Question 2. No, sir.
- Question 3. No.
- Question 4. No.
- Question 5. Webster, who compiled from other dictionaries.
- Question 6. Pretty hard to say.

5896 77. G. Roff, 843 Kirkpatrick Avenue, Stenographer.

- Question 1. No. I do not know.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Webster.
- Question 6. 1840.

Exhibit: Cards produced by witness Gray. 5897

78. Mrs. M. Blakeny, 52 Salvania Street, Ste-nographer.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. Years and years ago.

79. Leon Shapiro, Finleyville, Pa., Farmer. 5898

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster is all I ever heard.

Question 6. I don't know.

80. W. P. Gosseon, 3944 Hawley Avenue, En-gineer. 5899

Question 1. Indeed I don't.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

81. James Timponce, 3 Poplar Alley, Baggage-man.

Question 1. No, I don't know. 5900

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. It was Noah Webster.

Question 6. Don't know.

5901 *Exhibit: Cards produced by witness Gray.*

82. W. D. Slease, 3119 Kelvin Street, Minister.

Question 1. Yes.

Question 2. Yes, it does.

Question 3. In Boston I think.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

5902 83. Geo. L. Golddoch, Allentown, Pa., Milkman.

Question 1. No, I do not.

Question 2. Yes, it does.

Question 3. New York, I think.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

84. Mrs. Alexander, 5854 Aylshoro Avenue.

5903 Question 1. No.

Question 2. Yes.

Question 3. No, I don't.

Question 4. No, Post I think.

Question 5. I don't know.

Question 6. I don't know.

85. J. L. Schwutz, Ft. Worth, Texas, Oil and Gas Operator.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. I've forgotten.

Question 5. Webster.

Question 6. Many years ago.

5904

Exhibit: Cards produced by witness Group.

5995

CINCINNATI, OHIO.

96. Geo. Blüchner, 1929 Carson Street, School.

Question 1. I do not. Whether I suppose.

Question 2. No.

Question 3. No.

Question 4. I heard there was a second publication.

Question 5. Whether.

5996

Question 6. Good many years ago.

97. R. O'Neill, 4385 Virginia Avenue, Solicitor.

Question 1. Whether, I guess.

Question 2. Yes.

Question 3. No.

Question 4. No.

Question 5. Whether.

Question 6. Before my time.

5997

98. Miss Brandewie, 2345 Gilbert Ave., School.

Question 1. Never looked.

Question 2. Boston.

Question 3. No.

Question 4. No.

Question 5. Whether—Saw words by them
scanned them.

Question 6. Middle of 19th century.

99. Ellen Clark, 1518 Chapel Street.

5998

Question 1. No, I don't.

Question 2. No.

Question 3. Don't know.

Question 4. No.

Question 5. Whether.

Question 6. Good many years ago.

5909 *Exhibit: Cards produced by witness Gray.*

90. John Shippering, 26 E. 13th Street, Covington, Engineer.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. When he wrote the book.

5910

91. H. W. Steinman, Westwood, Mfr.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No, I guess not.

Question 5. Webster.

Question 6. Some time ago.

92. Hilda Pond, 3000 Hackbury, Stenographer.

5911

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. 50 years ago.

93. A. J. Bernens, 3919 Elsmere Ave., Book-keeper.

5912

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. 1st part of 19th Century.

Exhibit: Cards produced by witness Gray. 5913

94. S. J. Owens, 409 Milton St., Clerk.

Question 1. No.

Question 2. No.

Question 3. New York; not positive.

Question 4. No.

Question 5. Noah Webster.

Question 6. About 1840.

95. Joe W. Kehnan, 1171 Hamond Ave., Driver. 5914

Question 1. No.

Question 2. No.

Question 3. Cincinnati.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

96. Raymond Rigney, 756 W. 9th, Clerk R. G. Dunn.

Question 1. No.

5915

Question 2. No, sir.

Question 3. Cincinnati.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

96½. Miss A. Gorsuch, 4 W. Sommerfield, Avondale, Working Girl.

Question 1. No.

Question 2. No.

5916

Question 3. New York.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

97. V. Ketzal, Sharonville, O., Clerk.

Question 1. No.

5917 *Exhibit: Cards produced by witness Gray.*

- Question 2. No.
- Question 3. Yes.
- Question 4. No.
- Question 5. I don't know that.
- Question 6. I don't know that.

98. D. Moschel, 1213 Poplar, Messenger.

- 5918
- Question 1. No.
 - Question 2. No.
 - Question 3. Yes.
 - Question 4. No.
 - Question 5. I couldn't say.
 - Question 6. I don't know.

99. Claude Henley, 931 Bar St., Elevator Tender.

- 5919
- Question 1. No (Webster himself).
 - Question 2. No, sir.
 - Question 3. No.
 - Question 4. No.
 - Question 5. I don't know.
 - Question 6. I don't know.

100. Miss Held, 3340 Spokane Ave., Walnut Hill.

- 5920
- Question 1. No, I don't.
 - Question 2. No.
 - Question 3. No.
 - Question 4. No.
 - Question 5. I don't know.
 - Question 6. I don't know.

101. Frank Baker, Addyston, Ohio, Engineer.

- Question 1. No.
- Question 2. No.
- Question 3. No.

Exhibit: Cards produced by witness Gray.

5921

Question 4. No.

Question 5. I don't remember just now.

Question 6. I don't know.

102. George Rooney, 543 Dandridge Street,
Representative.

Question 1. No, I don't.

Question 2. No.

Question 3. No, I do not.

5922

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

103. Mrs. M. S. Johnston, Silveton, O.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know

5923

Question 6. I don't know.

104. Hold. Grewe, 4706 Wilmer Street.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

105. J. Keller, 544 Mt. Hope, Clerk.

5924

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

925

Exhibit: Cards produced by witness Gray.

106. Frank Lane, 2230 Gilbert, Civil Engineer.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know that, either.

Question 6. I don't know.

5926

107. Mrs. Ed Padgett, Ludlow, Ky.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

108. F. Koepfle, 4321 Dower Avenue, St. Bernard, Cashier.

5927

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

109. Fredericka Godsnee, 230 Garrard Street, Covington, Ky.

5928

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know that.

Question 6. I don't know that.

Exhibit: Cards produced by witness Gray. 5929

110. Edward Downing, 631 West 4th Street,
Car Conductor.

Question 1. No, sir, I don't.

Question 2. I don't know

Question 3. No.

Question 4. No.

Question 5. I don't know that.

Question 6. I don't even know that.

111. Wm. M. Schaeffer, 35 Fifth Avenue, Cov-
ington, Ky. 5930

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know. Before I was
born.

112. J. I. Allen, c/o Car Cartidge & Paper Co.,
Collector. 5931

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. I do not.

Question 5. I don't know.

Question 6. I don't know.

113. Wm. Ziegenhardt, 1053 Washall Avenue, 5932
Engineer.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I couldn't tell you.

5933 *Exhibit: Cards produced by witness Gray.*

114. Chas. Pelman, 1003 E. Court Street, Stenographer.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. I don't know
- Question 6. I don't know.

5934 115. A. Gallenkupr, 332 2nd Avenue, Dayton, Order clerk.

- Question 1. No, I don't.
- Question 2. No.
- Question 3. No.
- Question 4. No sir, I do not.
- Question 5. I don't know.
- Question 6. I don't know.

5935 116. L. Nichoff, 1810 Mills Avenue, Office clerk.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. I don't know.
- Question 6. I don't know.

117. R. E. Gosling, 1510 Lingo, Stenographer.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. I don't know.
- Question 6. I don't know.

5936 118. C. B. Lewis, 15 Walnut Avenue, Wyoming, Mach. Furniture Co.

- Question 1. I do not.

Exhibit: Cards produced by witness Gray.

593

Question 2. I do not.

Question 3. No sir.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

119. Rose Hempel, 2014 Clarion Avenue, Book-keeper.

Question 1. No.

Question 2. No.

593

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

120. Mr. Frank Zehnder, 118 E. 13th St.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

5939

Question 5. I don't know.

Question 6. I don't know.

121. H. H. Friason, 1021 Foraker, Plumber.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

5940

122. Geo. Lamning, Mt. Healthy, O., Grocery Mgr.

Question 4. No.

Question 2. No.

Question 3. No, I do not.

5941 *Exhibit: Cards produced by witness Gray.*

Question 4. No.

Question 5. I haven't the least idea.

Question 6. I don't know.

123. Mrs. L. Klocke, 1720 Dreman Ave.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

5942 Question 5. I don't know.

Question 6. I don't know.

124. W. L. Haldy, 353 Howell Ave.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know anything about it.

5943 Question 6. I don't know anything about it.

125. Wm. H. W. Bergerman, 412 Bench St., Elmwood Place, O.

Question 1. No, I don't.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I haven't the least idea.

5944 Question 6. I don't know.

126. Wm. Johnston, Montgomery, O., Carpenter.

Question 1. I don't know.

Question 2. I don't know.

Question 3. I don't know.

Question 4. No.

Exhibit: Cards produced by witness Gray.

5945

Question 5. I don't know.

Question 6. I don't know.

127. H. G. Thal, Norwood, Bank.

Question 1. No.

Question 2. I don't know.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I can't tell that either.

5946

128. W. G. McCombs, 4002 Williamson Place,
none.

Question 1. No.

Question 2. Yes.

Question 3. I do not.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

129. Otto Palm, 2330 Ashland Ave., Traveler.

5947

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. Funk & Wagnalls.

Question 5. Got me.

Question 6. I couldn't say.

130. D. D. Barry, Middletown.

Question 1. No, I don't.

Question 2. No.

Question 3. Boston.

Question 4. I can't recall.

Question 5. A great many people.

Question 6. I don't know when.

5948

5949

Exhibit: Cards produced by witness Gray.

131. W. A. Grady, 118 E. 6th St.

Question 1. No, you get me.

Question 2. No, it does not.

Question 3. New York.

Question 4. No.

Question 5. Body of men.

Question 6. Don't know.

5950

132. E. Knepple, Harrison, Ohio.

Question 1. No.

Question 2. Yes.

Question 3. New York.

Question 4. No.

Question 5. Daniel Webster.

Question 6. I don't know.

133. Margaret B. Yutsey, Newport, Ky., Stenographer.

5951

Question 1. No, sir.

Question 2. No.

Question 3. Cincinnati and nearly all large cities.

Question 4. No.

Question 5. Webster, the first one; don't know any others.

Question 6. I do not.

134. E. E. Daily, Covington, Ky., R. R. Mail Service.

5952

Question 1. No.

Question 2. No.

Question 3. No, I don't.

Question 4. No.

Question 5. Webster himself, but not all of them.

Question 6. I don't know that.

Exhibit: Cards produced by witness Gray.

595

135. J. C. Baner, 11 W. Court St., Watchman.

Question 1. No, I don't.

Question 2. No.

Question 3. I don't.

Question 4. No, sir.

Question 5. Webster.

Question 6. I don't know.

136. Joseph Bechtold, 33 Farrell's Court, Clerk.

5954

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster himself.

Question 6. I don't know.

137. James Wolfe, Glenwood Building, Flat 12,
School.

Question 1. No.

Question 2. No.

5955

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. I don't know.

138. John Golter, 21 E. 13th St., Notary and
Clerk.

Question 1. No, I don't.

Question 2. No.

Question 3. No.

5956

Question 4. No.

Question 5. Webster.

Question 6. I don't know.

139. W. K. Runyon, Milford, O., Chocolate.

Question 1. No.

957 *Exhibit: Cards produced by witness Gray.*

Question 2. Yes.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. I don't know.

140. D. Goldstein, 1000 West Ave., Merchant.

Question 1. No, I don't pay any attention to those things.

958 Question 2. By different publishers.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. I don't remember.

141. Miss Keller, Montgomery, O., Stenographer.

Question 1. Several in Cincinnati.

Question 2. No.

959 Question 3. All the large cities.

Question 4. Syndicate Publishing Co.

Question 5. Webster.

Question 6. I don't know.

142. H. W. Gruife, 206 4th Ave., Dayton, Ky., Advertising Mgr.

Question 1. No, I don't; I have an idea G. & C. Merriam & Co., but not sure.

960 Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster originally.

Question 6. When Webster wrote it.

143. Isidor Wise, 56 Perrin Bldg., Newspaper.

Question 1. Merriam.

Exhibit: Cards produced by witness Irving. 2561

Question 1. It does to me. It seems gotten out by that publication.

Question 2. No, I don't know of any others excepting Connecticut.

Question 3. No, I don't.

Question 4. Successive issues of Editors, since the time of Noah Webster.

Question 5. Printed in each new edition. 2562

144. Lorenzo Bennett, 611 W. 4th, Ohio.

Question 1. No.

Question 2. No.

Question 3. New York, Philadelphia.

Question 4. I know of one, but don't know the publication.

Question 5. Professors of Universities.

Question 6. I couldn't say.

145. W. V. Plume, 1510 Chase Ave., Clark. 2563

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Various people, I presume.

Question 6. Changed from time to time.

146. L. L. Mann, 1000 Chapel St., Bristol.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Many men.

Question 6. Matter of evolution. 2564

5965 *Exhibit: Cards produced by witness Gray.*

147. R. W. Staley, 1215 John Street, M. D.

Question 1. No.

Question 2. No.

Question 3. I do not.

Question 4. No.

Question 5. Any number of different people.

Question 6. Spelling is changed right along.

5966

148. Wm. Schmithorst, The Reumes Soap Co., Salesman.

Question 1. No.

Question 2. Certain publishers, yes.

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

Question 6. 1850.

5967 149. H. W. Fitzpatrick, 158 Elm Street, Ludlow, Ky., Student, University.

Question 1. No, I do not.

Question 2. No, sir.

Question 3. No.

Question 4. No.

Question 5. I thought Webster's did.

Question 6. When Webster was alive.

5968

150. O. E. Walker, 3712 Columbus Avenue, Mfg.

Question 1. No. Wasn't it Johnston?

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

Question 6. About 1830 to 40.

Exhibit: Cards produced by witness Gray.

5969

151. Mrs. Sam Frost, Withelm Bldg., Avondale.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. When Webster lived.

152. Godfrey Brinkham, 1818 Sycamore, Mr. Auburn, Porter.

5970

Question 1. No, except Webster.

Question 2. No.

Question 3. No.

Question 4. No, sir. I do not.

Question 5. Webster.

Question 6. Long time ago.

153. Stanley Mullins, 24 E. 20, Covington, Ky., Office boy.

5971

Question 1. No, sir.

Question 2. Yes.

Question 3. New York.

Question 4. No.

Question 5. Webster.

Question 6. Some time ago.

154. Henry E. Bergman, 29 Fourth Street, Electrician.

Question 1. No, sir.

5972

Question 2. No, sir.

Question 3. No.

Question 4. No.

Question 5. Daniel Webster.

Question 6. About 100 years ago.

5973 *Exhibit: Cards produced by witness Gray.*

155. Vincent Roda, 229 E. Liberty, School.

Question 1. Webster.

Question 2. No.

Question 3. No.

Question 4. No, I don't know of any.

Question 5. Committee of men.

Question 6. 1850.

5974 156. Heine Young, Burlington Hotel, None.

Question 1. No.

Question 2. No.

Question 3. New York.

Question 4. Collier's Weekly.

Question 5. Heine Young.

Question 6. As soon as I was born.

157. John Gunzer, Reading, Ohio, Driver.

Question 1. No.

5975 Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

158. Charles Jones, Sailor Park, Janitor
School.

Question 1. No, I do not.

Question 2. No.

5976 Question 3. No, I do not.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

159. D. H. Fox, 563 Delta Avenue, Express
Messenger.

Question 1. No.

Exhibit: Cards produced by witness Gray.

5977

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

160. Mrs. Baumgardner, 1177 Harrison Avenue, School Teacher.

Question 1. No.

Question 2. No.

5978

Question 3. No, I don't.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

161. John H. Bocklet, 2871 McMicken Avenue, Clerk.

Question 1. No.

Question 2. No.

Question 3. No, I do not.

5979

Question 4. No.

Question 5. I couldn't say.

Question 6. I don't know.

162. F. Rabe, Fort Mitdhell, Ky., Cashier.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know. Took it for granted it was Webster.

5980

Question 6. I don't know.

163. Mrs. J. M. Jones, Newport, Ky.

Question 1. No, sir, I don't believe I do.

Question 2. No, sir.

5981 *Exhibit: Cards produced by witness Gray.*

Question 3. No.

Question 4. No, sir.

Question 5. No, sir. I don't know.

Question 6. I don't know that.

164. John R. Gray, Dayton, O., Traveler.

Question 1. No.

Question 2. No.

5982

Question 3. No.

Question 4. No, sir, I don't.

Question 5. I can't answer that.

Question 6. I don't know that.

165. Edith Gabel, 353 Foot Avenue, Stenographer.

Question 1. I don't know.

Question 2. No.

Question 3. No.

5983

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

166. Frederick Cole, 1314 Cabent Avenue, Electrician.

Question 1. No, sir. I don't.

Question 2. No.

Question 3. No.

Question 4. No.

5984

Question 5. No. I don't know that, either.

Question 6. I don't know.

167. James Mitchell, 622 Barr Street, Janitor.

Question 1. No.

Question 2. No.

Question 3. No, I do not.

Question 4. No.

Exhibit: Cards produced by witness Gray.

5985

Question 5. I don't know.

Question 6. I don't know.

168. Franklin R. Bowles, 1413 John Street,
Salesman.

Question 1. No.

Question 2. No, sir.

Question 3. No, sir.

Question 4. No.

Question 5. Don't know that.

5989

Question 6. Don't know.

169. G. R. Grandin, Walnut Hill, Leather Mfg.

Question 1. No, sir.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know that, either.

Question 6. I don't know anything about
dictionaries.

5987

170. Miss Rose Wolff, 2733 Erie Ave., Hyde
Park, Cleaner.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

5988

171. Harry Blatz, 1948 Hammon Avenue, Office
Boy.

Question 1. No.

Question 2. No.

Question 3. No, sir.

Question 4. No, sir.

5989

Exhibit: Cards produced by witness Gray.

Question 5. Don't know.

Question 6. Don't know.

172. Wm. Brown, 170 W. 5th Street, Covington, Butler.

Question 1. No.

Question 2. No.

Question 3. No.

5990

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

173. Vernet Hermann, 419 Reading St., Stock.

Question 1. No. I don't know.

Question 2. No, sir.

Question 3. No, sir.

Question 4. No, sir.

Question 5. I don't know.

5991

Question 6. I don't know.

174. J. Hudpuhl, 409 McMicken Street, Beer business.

Question 1. No.

Question 2. I don't think so.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

5992

175. John Amann, 1121 Park Avenue, Newport, Storekeeper, Pa. R. R. Co.

Question 1. No, I don't.

Question 2. No, sir.

Question 3. No, sir.

Question 4. No.

Question 5. I couldn't say.

Question 6. I couldn't say.

Exhibit: Cards produced by witness Gray. 5993

176. C. W. Gillis, Bangor, Me.

Question 1. No, I don't know.

Question 2. No.

Question 3. I don't.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

177. J. H. Yost, 174 Commonwealth, Detroit. 5994

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

178. H. A. Winans, 2527 Ashland Ave., Asst.
Foreman A. M. Laundry Machinery Co.

Question 1. No, I don't.

5995

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know. Noah Webster
wrote some of them.

Question 6. I don't know.

179. Frank Mills, Chicago, Ill., Traveling
Salesman.

Question 1. No.

5996

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

997 *Exhibit: Cards produced by witness Gray.*

180. T. Davidson, 309 Commercial Tribune,
Life Insurance.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

5998 181. J. Hobleyel, Millville, O., Paper hanger.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Don't know a thing about it.

Question 6. Don't know.

182. Geo. Kleemore, 317 E. 13th, Stock Keeper.

5999 Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

183. H. Hewing, 1212 1st National Bank Bldg.,
Clerk.

6000 Question 1. I do not.

Question 2. No.

Question 3. No.

Question 4. No, sir.

Question 5. I can't answer that.

Question 6. I don't know.

184. Chas. F. Geiser, 1728 Race St., Book-
keeper.

Question 1. No.

Exhibit: Cards produced by witness Gray.

6001

Question 2. I couldn't answer that.

Question 3. No.

Question 4. No.

Question 5. I couldn't tell you that.

Question 6. I don't know that.

185. Maud Martin, 1222 Fifth Ave., Dayton.

Question 1. No.

Question 2. Yes.

6002

Question 3. Yes.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

186. Miss Rohlman, Good Samaritan Hospital,
Nurse.

Question 1. No, I don't believe I do.

Question 2. Yes.

Question 3. Sure I know that.

6003

Question 4. No.

Question 5. I haven't any idea.

Question 6. I don't know.

187. John Zoller, Union Gas & Electric Co.,
Office.

Question 1. No.

Question 2. No.

Question 3. Michigan.

Question 4. No.

6004

Question 5. I don't know.

Question 6. I don't know.

188. Joseph Kirkub, 4119 Floral Avenue, Nor-
wood, Life Ins.

Question 1. Merriam & Co.

Question 2. It depends upon what also
goes with Webster which
indicates the edition.

6005 *Exhibit: Cards produced by witness Gray.*

Question 3. Chicago.

Question 4. No.

Question 5. Merriams.

Question 6. I don't know.

189. G. E. Hauley, Cliftondale, Mass., Salesman.

Question 1. No.

6006 Question 2. Webster. Yes.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. I don't know.

190. J. F. Barnes, 708 4th National, Stenographer.

Question 1. No.

Question 2. No.

6007 Question 3. No, I do not.

Question 4. No.

Question 5. Webster, I think.

Question 6. I don't know.

191. P. J. Lehane, 1247 Ida Street, Mt. Adams, Penna. Duty Rooms.

Question 1. No.

Question 2. No.

Question 3. No.

6008 Question 4. No.

Question 5. Webster.

Question 6. I don't know.

192. John R. Williams, 1829 Brewster, Clerk.

Question 1. No.

Question 2. No.

Exhibit: Cards produced by witness Gray.

6009

Question 3. No.

Question 4. No.

Question 5. Webster did, I presume.

Question 6. I don't know.

193. W. M. Simmons, 3224 Gilbert Avenue,
Commission Merchant.

Question 1. No.

Question 2. No.

6010

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

Question 6. I don't know.

194. John Arnold, 4413 Station Avenue, Clerk.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

6011

Question 5. Webster.

Question 6. I don't know.

195. Mrs. Geo. Selzer, Loveland, O.

Question 1. No.

Question 2. It does not.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. I couldn't tell.

6012

196. A. M. Connor, 2181 Harrison Avenue,
Stenographer.

Question 1. No, I do not.

Question 2. No.

Question 3. No.

6013 *Exhibit: Cards produced by witness Grog.*

Question 4. No.

Question 5. Daniel Webster.

Question 6. I don't know.

197. Frank Zimmerman, 23 Green Street, And.
Shipping Clerk.

Question 1. Webster.

Question 2. No.

6014 Question 3. Yes, N. Y. Can. Club.

Question 4. No.

Question 5. Webster and other great men.

Question 6. Don't know.

198. W. H. Roberts, Waltham Avenue, Hyde
Park, Engineer.

Question 1. No.

Question 2. No.

Question 3. No.

6015 Question 4. No.

Question 5. Competent men.

Question 6. I couldn't say.

LOUISVILLE, KY.

199. Tall E. Brown, 1306 W. Walnut Street,
Lawyer.

Question 1. No.

Question 2. No.

Question 3. No.

6016 Question 4. No.

Question 5. Authority.

Question 6. Constantly changing, couldn't
say.

200. Mrs. G. P. Harper, 2300 W. Broadway.

Question 1. No, I don't.

Question 2. No.

Question 3. No.

Exhibits: Cards produced by various boys

(22)

Question 1. No.

Question 2. Walker.

Question 3. Good many years ago.

211. Alex. G. W. Cook, 225 W. Franklin.

Question 1. No, I don't.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Walker.

Question 6. Long time ago.

(23)

212. L. M. Smith, 225 Second Street, Evans.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Walker.

Question 6. Way back in 1788 or 1789.

(24)

213. E. C. Wilson, 2725 Ohio Avenue, New
Haven, Conn.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. David Walker.

Question 6. 1788.

214. E. F. Greenhouse, 225 W. Walker Street, De-
pue.

(25)

Question 1. No.

Question 2. No.

Question 3. I don't know that.

Question 4. Don't know.

Question 5. About 4000 David Walker.

Question 6. About 1788 or 1789.

6021 *Exhibit: Cards produced by witness Gray.*

205. Edward G. Millet, 1415 Second Street,
Newspapers.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

6022 206. Mrs. Edward White, 1111 Fourth Street.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

207. B. Dallenbach, L. & N. R. R. Co., R. R.

6023 Question 1. No, sir.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I never heard.

Question 6. I don't know.

208. S. Netter, 2118 Little, Foreman.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Don't know.

Question 6. Don't know.

6024

209. Rodger H. Collins, 1342 So. 28th, Traveler.

Question 1. No.

Question 2. No.

Exhibit: Cards produced by witness Gray. 6025

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

210. Mrs. Inez Clark, 1013 E. Maple, Jeffersonville, Candy.

Question 1. No.

Question 2. No.

Question 3. No.

6026

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

211. Miss Lizzie Sham, 127 Roberts Ave., Stenographer.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

6027

Question 5. I never thought about it.

Question 6. I don't know.

212. Geo. Kendnek, 460 So. 4th, Jeweler.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Don't know.

Question 6. Don't know.

6028

213. Ed. McCrory, 1714 Magazine St., Lather.

Question 1. No, I do not.

Question 2. No.

Question 3. No, I do not.

Question 4. No.

6029

Exhibit: Cards produced by witness Gray.

Question 5. I can't answer that.

Question 6. And I can't answer that.

214. Lee A. Collins, 738 So. 18th, Newspaper.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

6030

Question 5. I don't know.

Question 6. I don't know.

215. A. Walter, 536 E. Madison, Porter.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

6031

216. F. H. Woeht, 621 So. 26th, Pianos.

Question 1. No, I do not.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

217. Geo. S. Bain, 2112 W. Broadway, Newspaper Business.

6032

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

Exhibit: Cards produced by witness Gray. 6033

218. Alfred Borket, 107 W. Walnut., Porter.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

219. J. G. Haymaker, Charlestown, Ind., 6034
Farmer.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know that.

Question 6. I don't know that.

220. Frank T. Wilson, 321 Thomas Street, New
Allany, Ind., Printer. 6035

Question 1. I do not.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

221. R. O. Shircliff, 1328 Hull Street, Fireman.

Question 1. No, I don't.

Question 2. No.

Question 3. No, sir.

Question 4. No, sir.

Question 5. Guess it was Noah Webster.

Question 6. Don't know how long ago.

6036

6037 *Exhibit: Cards produced by witness Gray.*

222. Herman Rhea, 2019 Maple Street, Lumber Grader.

- Question 1. No, I don't.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Noah Webster.
- Question 6. I don't know.

6038

223. Holtz Kneche, 727 Caldwell, Tailor.

- Question 1. No.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Webster & Help.
- Question 6. Couldn't tell.

224. S. P. Graham, 810 Magazine Street, Lumber Business.

6039

- Question 1. No.
- Question 2. Merriam.
- Question 3. No.
- Question 4. No.
- Question 5. The books tell for themselves.
- Question 6. I don't know.

225. Mrs. M. B. Tucker, Wult House, School Principal.

6040

- Question 1. Merriam & Co.
- Question 2. Yes Merriam & Co.
- Question 3. No.
- Question 4. I do not.
- Question 5. Committee of professors in colleges.
- Question 6. Different periods of revision of dictionary.

Exhibit: Cards produced by witness Gray.

6041

MILWAUKEE, WISC.

226. M. A. Grigsby, 327 E. Broadway.

Question 1. No.

Question 2. Yes, one would suppose so.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. Many years ago.

6042

227. M. C. Baldwin, 2804 Meinecke Ave., Supt.

Question 1. No.

Question 2. Several places.

Question 3. Phila.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

228. W. Davidson, 559 Laphain, Lumberman.

Question 1. No.

6043

Question 2. Only the Webster.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

229. M. Miller, 250 Pleasant St.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

6044

230. G. S. Solentine, 218 22nd St.

Question 1. No.

Question 2. No.

Question 3. No.

6045

Exhibit: Cards produced by witness Gray.

Question 4. No.

Question 5. Don't know.

Question 6. Don't know.

231. Helen M. Seifert, 651 Marshall St.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

6046

Question 5. Noah Webster.

Question 6. Ages and ages ago.

232. D. Harthine, 1099 Booth St., School.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

6047

233. Mrs. Bertle, 712 Craemer St.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. I don't know.

234. Murray Sullivan, 868 Mainetta, School.

6048

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. Three years before he died.

Exhibit: Cards produced by witness Gray.

6049

235. Ida Powell, 763 42nd St.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

Question 6. Good time ago.

236. M. Mamney, 525 2nd Ave., Teamster.

6050

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. I don't know of any.

Question 5. I don't know.

Question 6. I don't know.

237. Miss Swenson, 591 Tenth Avenue.

Question 1. No, I don't.

Question 2. No.

Question 3. No.

6051

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

238. Lucius H. Masfield, National Home,
Soldier and Printer.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

6052

Question 5. I don't know that.

Question 6. I don't know.

239. Milo Redford, 2725 Grant Avenue, Busi-
ness College.

Question 1. No.

Question 2. No.

6053 *Exhibit: Cards produced by witness Gray.*

Question 3. No.

Question 4. No.

Question 5. I have no idea.

Question 6. I don't know that I'm sure.

240. A. Genthe, 1114 Lloyd Street, Seamstress.

Question 1. No.

Question 2. No.

6054 Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

241. A. Fromherz, 172 Thirteenth Street,
Student.

Question 1. No, I don't.

Question 2. No.

Question 3. No.

6055 Question 4. No.

Question 5. Noah Webster.

Question 6. Quite a while ago.

242. Edward Werba, 515 Chestnut Street,
School.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

6056 Question 5. Noah Webster.

Question 6. About 50 years ago.

243. L. Mills, 1301 Winlake Avenue, Photo-
graph.

Question 1. No, I don't.

Question 2. No.

Question 3. No, I don't.

Exhibit: Cards produced by witness Gray. 6057

Question 4. No.

Question 5. Professors of different universities.

Question 6. Some comparatively new.

244. J. Ruplinger, 2315 Grand Avenue, Chauffeur.

Question 1. No.

Question 2. No.

Question 3. No.

6058

Question 4. No.

Question 5. Noah Webster.

Question 6. About 50 years ago.

245. J. Loeb, 820 American, Postman.

Question 1. No, I have no idea.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

6059

Question 6. I don't know.

246. C. R. Zillier, 2913 Chestnut, Salesman.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster originally.

Question 6. I couldn't tell that.

6060

247. M. Alexander, 718 Wells Street.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

6061

Exhibit: Cards produced by witness Gray.

Question 5. I don't know.

Question 6. I don't know.

248. F. Kriegert, 779 Holton Street, Engineer.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

6062

249. B. Roska, 485 Milwaukee Street, Drugs.

Question 1. I don't know.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

6063

250. L. Suchil, 18 Brunks, Clerk.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

251. Mrs. Palmer, 1100 1st Street.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

6064

Exhibit: Cards produced by witness Gray. 6065

252. Howard Bromvill, 296 10th Street, Machinist.

- Question 1. No, sir.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. I don't know.
- Question 6. I don't know.

253. J. Dougherty, 705 Cedar Street, Physical Instructor. 6066

- Question 1. No, I don't.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. I don't know.
- Question 6. I don't know.

254. J. Watrous, 223 9th Street, Ins. Clerk. 6067

- Question 1. No, not sure think Merriam & Co. one of them.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Hard to tell.
- Question 6. Don't know.

255. Florence Hartuny, Station D. Rural Route 2, School. 6068

- Question 1. Webster.
- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Webster.
- Question 6. Don't know.

6069 Exhibit: Cards produced by witness Grog.

256. Geo. Kachin, 1118 4th, Wis. News Co.

Question 1. Different people.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Whether for a while for not different people.

Question 6. Some time ago.

6070 257. A. F. Schneider, 3620 Chestnut, Bruggin.

Question 1. Syndicate Pub. Co.

Question 2. No.

Question 3. I can't answer that.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

6071 258. Wm. Gocher, 424 Island Avenue.

Question 1. No.

Question 2. No.

Question 3. Every large city.

Question 4. No.

Question 5. Whether.

Question 6. I can't say.

6072 259. Fanny Conington, 1057 Wall Street.

Question 1. South Wall Street.

Question 2. No.

Question 3. In every city.

Question 4. No.

Question 5. South Wall Street.

Question 6. I don't know.

6073 260. Harry Kuchler, 744 2nd Street, School.

Question 1. Whether & Worcester.

Question 2. No.

Exhibit: Cards produced by witness (Tray)

(b)(7)(C)

- Question 1: Minnesota and New York.
- Question 2: No.
- Question 3: Webster.
- Question 4: 12 months.

201. Eric Rosen, 300 Harting School

- Question 1: No.
- Question 2: No.
- Question 3: 1 month.
- Question 4: No.
- Question 5: Eric Rosen.
- Question 6: 1012.

(b)(7)(C)

202. J. Tschering, 1075 200 St., New York

- Question 1: Some time in N. Y.
- Question 2: Yes, 4 days.
- Question 3: New York.
- Question 4: No.
- Question 5: Originally Webster.
- Question 6: Long time ago.

(b)(7)(C)

203. H. Halachuk, 600 Sunset Ave., Santa
monica

- Question 1: No.
- Question 2: No.
- Question 3: New York & Chicago.
- Question 4: No.
- Question 5: Just Webster after that
called by others.
- Question 6: That all depends on the
month and what day was
the day.

(b)(7)(C)

204. J. C. O'Connell, 305 Queen Van Ness, San
Francisco, Cal. 94101

- Question 1: Irvine, Berkeley, Santa J.

6077 *Exhibit: Cards produced by witness Gray.*

Question 2. No.

Question 3. New York.

Question 4. No.

Question 5. Noah Webster and Staff and
new editions since his time.

Question 6. I couldn't give a definite date.

265. J. Hefferman, 305½ 26th Ave., Feed Mnfr.

Question 1. No.

6078 Question 2. We know Webster is stan-
dard.

Question 3. No.

Question 4. No.

Question 5. Combination of most learned
men in world.

Question 6. A long time before you and I.

266. L. E. Moessner, 50 Loan & Trust Bldg.

Question 1. No.

6079 Question 2. The name would influence a
person.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I haven't the least idea.

267. Would not give name; Policeman No. 1
Station, Milwaukee.

Question 1. Sentinel.

6080 Question 2. No.

Question 3. Milwaukee.

Question 4. Yes.

Question 5. I couldn't answer that.

Question 6. I don't know.

Exhibit: Cards produced by witness Gray.

6081

268. E. F. Whalend, 128 18th Street.

Question 1. I do not.

Question 2. Webster, yes.

Question 3. No, sir.

Question 4. No.

Question 5. I never thought of it.

Question 6. I don't know.

269. H. Whitten, 145 8th Belmont Hotel, Millwright.

6082

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I can't say.

Question 6. In the last 100 years.

270. W. A. Lord, 5018 Calumet Ave., Chicago, R. R.

6083

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster himself.

Question 6. Changed from year to year.

271. John Meyer, 2502 Clybourn, Barber.

Question 1. A firm in New York.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. I don't know.

6084

272. J. C. Riedel, 768 34, Broker.

Question 1. No.

6085 *Exhibit: Cards produced by witness Gray.*

- Question 2. No.
- Question 3. No.
- Question 4. No.
- Question 5. Webster.
- Question 6. I don't know.

273. L. P. Helmreich, 551 Sumint, School.

- Question 1. No.
- Question 2. No.
- 6086 Question 3. Almost any large city, Chicago, I think.
- Question 4. No.
- Question 5. College Professors.
- Question 6. Changed from time to time.

274. Chas. J. Andrews, 617 18th St., Solicitor.

- Question 1. No.
- Question 2. No.
- 6087 Question 3. No.
- Question 4. No.
- Question 5. Webster.
- Question 6. Webster's time and revised from time to time.

275. J. W. Trumbull, Racine, Wis., Clerk of Court.

- Question 1. No, I do not.
- Question 2. No.
- 6088 Question 3. Do not.
- Question 4. No.
- Question 5. Noah Webster and authorities.
- Question 6. Haven't slightest idea.

Exhibit: Cards produced by witness Gray.

6089

276. Mrs. L. Memjus, 605 Cudaby Apartment.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I'll have to look it up.

Question 6. Don't know.

277. A. Schoensee, 579 29th Ave., Messenger.

6090

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Webster.

Question 6. I don't know.

278. Edward Lesneewski, 1008 Midland Ave.,
Office Boy.

Question 1. No.

6091

Question 2. No.

Question 3. New York.

Question 4. No.

Question 5. Webster.

Question 6. Every year.

279. W. H. Zuehlke, 699 23rd, Timekeeper.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

6092

Question 5. I don't know.

Question 6. I couldn't tell you that, either.

280. Rudolf Slaune, 1338 8th Ave., Saloon.

Question 1. No.

6093

Exhibit: Cards produced by witness Gray.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

281. Stanley Skibinski, 784 6th Ave., Shoe Shop.

6094

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

282. F. O. Kuehn, 557 Stoll Ave., Broker.

6095

Question 1. No, I don't.

Question 2. It does not.

Question 3. New York.

Question 4. No.

Question 5. Webster himself.

Question 6. About Webster's time and revised since.

283. L. Hawkinson, 613 17th St., Tailoress.

6096

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

284. Harry L. Bates, 1610 Chamber, Salesman.

Question 1. No.

Question 2. No.

Question 3. No.

Exhibit: Cards produced by witness Gray.

6097

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

285. C. G. Gernand, 1105 15th, Cashier.

Question 1. No.

Question 2. Several publishers; no, I don't.

Question 3. No; probably all principal cities.

6098

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

286. Geo. L. McLees, 481 Reid St., Gloves.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. Noah Webster.

6099

Question 6. I don't know.

287. W. Winzel, 676 Forest Home, High School.

Question 1. No, I don't.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

288. C. A. Kirchhoff, 816 17th St., Contractor.

6100

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

6101 *Exhibit: Cards produced by witness Gray.*

Question 5. I don't know.

Question 6. I don't know.

289. Hugo Zunker, 1051 6th St., Typewriting machines.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

6102 Question 5. I don't know.

Question 6. I don't know.

290. G. B. Hibbard, 637 Summit Ave., Safes.

Question 1. No, I don't.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

6103 291. F. Hoffman, 626 Maryland Ave., School.

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

292. Henry Meyers, 336 25th Ave., Jewelry Clerk.

6104

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

Exhibit: Cards produced by witness Gray.

6105

293. A Jansen, 558 21st Ave., School.

Question 1. No.

Question 2. No.

Question 3. No.

Question 3. No.

Question 5. I don't know.

Question 6. I don't know.

294. Clifford Sheehan, 813 Jackson.

6106

Question 1. No.

Question 2. No.

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

295. Edith Lowum, 641 31st Street, Stenographer.

Question 1. No, I don't.

Question 2. No.

6107

Question 3. No.

Question 4. No.

Question 5. I don't know.

Question 6. I don't know.

296. Lyman G. Wheeler, Milwaukee, Lawyer.

Question 1. G. & C. Merriam (used to be).

Question 2. It had until recently. I suppose it was all one concern.

6108

Question 3. Chicago.

Question 4. I know Webster's unabridged was followed by Webster's International; I think by same publisher.

William M. Gray—Re-Direct.

6109

Question 5. I don't know.

Question 6. At no one period.

297. Mrs. Annette Delmand, 718 Cedar St.

Question 1. No, I do not.

Question 2. Yes.

Question 3. No, I do not.

Question 4. No, I do not.

Question 5. Webster.

6110

Question 6. I couldn't tell.

Re-D. Q. 154. How did the vast majority of the persons examined by you answer question No. 1?

MR. HALE: Objected to as calling for a conclusion of the witness; all of the answers given having been spread upon the record, and they may be counted and an accurate, exact answer obtained.

6111 A. In the negative.

Re-D. Q. 155. How did the vast majority of the persons examined by you answer question No. 2?

MR. HALE: Same objection repeated.

A. In the negative.

Re-D. Q. 156. How did the vast majority of the persons examined by you answer question No. 3?

A. In the negative.

Re-D. Q. 157. How did the vast majority of persons examined by you answer question No. 4? A.

6112 In the negative.

Re-D. Q. 158. How did the vast majority of the persons examined by you answer question No. 5?

MR. HALE: Same objection to each one of these questions.

A. I think the majority answered, "I don't know."

William M. Gray—Re-Direct.

61

Re-D. Q. 159. Of those who were able to give any answer to question No. 5, what did the vast majority answer? A. I think that they answered "Webster."

Re-D. Q. 160. How did the majority of those examined answer question No. 6? A. They answered "I don't know."

Re-D. Q. 161. Of those who gave some affirmative answer, what did the majority say?

MR. HALE: Same objection.

611

A. Well, I cannot recall that.

Re-D. Q. 162. Were the answers picked out by counsel for complainant usual or exceptional?

MR. HALE: Objected to as calling for a conclusion of the witness and as leading, and because the answers have been spread upon the record, and speak for themselves.

A. Exceptional.

Re-D. Q. 163. Would you say that they were in general unique?

6115

MR. HALE: Same objection.

A. I don't know exactly how the word "unique" would be applied there. Unique to those particular people, you mean?

Re-D. Q. 164. No, unique among the answers; they are unusual among the answers? A. Yes.

Re-D. Q. 165. On cross examination you were asked whether or not the persons were more concerned in getting the book that they wanted than in the name of the concern who published that book, and you answered to that question, "Yes." Did you mean by your answer to that question—

6116

MR. HALE: I object to the form of the question as obviously leading, and I wish

William M. Gray—Re-Direct.

to enter the objection before the damage is done.

MR. CARROLL: I will state at this point, that the question of complainant's counsel was so obviously leading, itself, that it is necessary in order to get the true understanding of this witness—a more particular question than would have otherwise been necessary.

MR. HALE: Complainant's counsel suggests that he was cross examining the witness and did not exceed his privilege.

Re-D. Q. 166. (Continuing)—that they were more interested in the contents of the book than in the concern which did the mechanical preparation of the book? A. Yes. I don't think they were interested at all in the concern that did the mechanical preparation.

MR. HALE: The answer is further objected to as a mere conclusion or guess of the witness, and motion is made to strike out out.

MR. CARROLL: This witness has made a careful and detailed study of the psychology of the public in connection with the word "Webster" and has qualified himself as an expert to answer all questions in connection with their understanding of the word "Webster."

MR. HALE: The asking of the six stereotyped and prepared questions does not constitute a thorough or even a fair investigation of the psychology of the public's mind in regard to the name "Webster" in connection with dictionaries, and this wit-

William M. Gray—Re-Direct.

6121

ness has testified that he pursued the inquiry no further but confined himself strictly within his instructions.

Re-D. Q. 167. You have testified on cross examination that a few of the persons questioned by you answered question No. 2 in the affirmative. Do you know what they meant by this answer?

MR. HALE: Objected to; the answers must be allowed to speak for themselves. 6122

A. I do not.

Re-D. Q. 168. From their general demeanor as they were answering the questions, and from all the surrounding circumstances, will you state what probably induced them to answer this second question in the affirmative?

MR. HALE: Objected to as obviously and highly improper and as calling for a mere surmise and guess of an employee of the defendant, employed for the purpose of making evidence for use in this case, his opinion upon such a question is obviously without value and wholly incompetent. 6123

A. I believe that they answered in the affirmative in order to display knowledge that they really did not possess.

MR. HALE: Motion is made to strike out the answer as obviously a mere guess or conclusion. 6124

Re-D. Q. 169. Was the answer to this last question in any way suggested to you by counsel for defendant or was it entirely your own conclusion drawn from the circumstances?

William M. Gray—Re-Cross.

6125

MR. HALE: Objected to as incompetent, irrelevant and immaterial, and an attempt of defendant to corroborate his own witness in advance of impeachment. Complainant's counsel inquires whether the answer of the persons questioned are evidence when they meet with defendant's approval, and not evidence when they are unsatisfactory, which the witness' last answer on this line of examination would seem to indicate.

6126

MR. CARROLL: The answers of the various persons questioned have been given in full on the record. Any further facts in connection with those answers which the expert now upon the stand can give counsel for defendant wishes him to give, and counsel for complainant is at liberty to obtain from this expert any other facts in connection with this investigation which the expert has.

6127

MR. HALE: Complainant objects that this witness has not been qualified as an expert upon any branch of the case, but merely as a reporter of conversations held by him with various persons.

A. It was my own conclusion entirely.

6128

MR. CARROLL: That is all.

RE-CROSS EXAMINATION by Mr. Hale:

Re-x Q. 170. Did you ask anyone whether the name "Webster's dictionary" indicated to them any particular book? A. I asked no questions except those that were given to me to ask.

William M. Gray—Re-Cross,

6129

Re-x Q. 171. Did any of the persons say anything to you to the effect that the name "Webster" indicated to them a particular book? A. No, sir; I don't recall.

Re-x Q. 172. And you did not pursue the inquiry to that extent? A. I pursued the inquiry no further than the questions.

Re-x Q. 173. With what theatrical companies or theatres are you connected as manager? A. At the present time?

6130

Re-x Q. 174. At the present time? A. With none.

Re-x Q. 175. How during the last year? A. During the last year I have not been connected in the theatrical business.

Re-x Q. 176. How long since you have been actively connected in the theatrical business?

MR. CARROLL: Objected to as irrelevant and immaterial.

6131

A. It is about a year ago.

Re-x Q. 177. What were the last companies or theatres with which you were connected? A. The last theatrical company I was connected with, I was the manager for Mrs. Leslie Carter; since that time I was the manager of Dr. Cook, but I would not class that under the head of theatrical entertainment.

Re-x Q. 178. What has been your occupation since your last theatrical connection? A. I was for two years or nearly two years, a year and one-half, associated with the New York Baseball Club.

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Re-x Q. 179. And you were not in any special employment when you were employed to make this investigation; is that right. A. No, sir.

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MR. HALE: That is all.

MR. CARROLL: That is all.

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MR. HALE: The objection to this entire deposition upon the ground that the same is wholly incompetent, irrelevant and immaterial, and upon all the grounds especially taken or reserved during the taking of the deposition is here renewed and motion is made to strike out the entire deposition.

DEPOSITION CLOSED.

(Signature of witness waived by consent.)

Further hearing adjourned to to-morrow morning, Friday, June 14th, 1912, at 11 A. M.

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NEW YORK, Friday, June 14th, 1912.

Met Pursuant to adjournment.

Present: Counsel as before.

PROF. HARRY THURSTON PECK, a witness called by and on behalf of the defendants, having been duly cautioned and sworn, testified as follows:

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DIRECT EXAMINATION by Mr. Carroll:

Q. 1. Will you give your full name? A. My name is Harry Thurston Peck.

Q. 2. Your residence? A. My residence is 468 Riverside Drive, New York City, and County and State.

Q. 3. And occupation? A. Editor and author.

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Q. 4. And age? A. My age at my next birthday will be fifty-five.

Q. 5. Have you during your life made some studies of the English language? A. Yes. I have practically without cessation made studies of the English language, literature more especially, but also language, and lexicography, and I have always done considerable lexicographical work, not always in English, but that has to do with the principles of lexicography. For example, if you want an instance, I made a brief lexicon of certain South African languages. It is published in the *American Journal of Philology* in 1887, Bantu languages especially. Then in Latin I made a lexicon of "Onomatopoeic Words in Latin." I made a lexicon of all of the onomatopoeic words in Latin language, and that was published in a book called *Classical Studies* in 1886, published by Macmillan, and I prepared a revision of *Louis & Short's*; it was laid before the American Philological Association at the request of several of the members, and had they taken up the revision which was then contemplated, they would have used what I had there, my material, because I had corrected all the errors that I could find, and added a large number of words that were there, and done the usual work of a lexicographer. Then in English I have written a book called "What is Good English?" and I have written a large number of essays and pamphlets and criticisms on the English language, too numerous perhaps or not necessary to mention, but just to show that I have been engaged in that sort of work for a long time. Then I have written a book called—I am mentioning books that are germane to the point—I have written a book that

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was published since last year (1911) called the History of the Classical Philology, which had to do really with anything that was classic in English literature, as well as in Greek and Latin languages, and also I have written and published—Harper's published it originally—a book called a Classical Dictionary, or A Dictionary of Classical Literature and Antiquities. That was a lexicon, so I put it in here as showing I have done an

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extensive piece of lexical work. That was a dictionary of classical literature and antiquities published first by Harper's, and when Harper's had failed it was bought by the Americal Book Company, who now have their imprint on it. That was in 1896. And it is practically the only book used now in colleges and universities. They always have one copy of that book. It is a very extensive book, very large, as large as Webster's.

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Then I edited a series of thirty-two books, in conjunction with Professor Peas, formerly of the Leland Stanford University, a series called "The Students Series of Latin Classics." And likewise in the way of language I have edited the University Bulletin at Columbia, and contributed very largely to various classical publications, as for example, the University Quarterly at Columbia, the American Journal of Philology, the English Classical Review, and a number of publications of that sort. Those are the principal ones,

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however, and most important ones. The others would be nothing beside them. Then the affidavit contained a number of other works which perhaps are not necessary to mention. I have put some things in there, for example, I did not mention my revision of Louis & Short's.

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As it did not appear in print, it was not published, and perhaps did not have so much importance. Then I have been the editor-in-chief of the International Cyclopedia published by Dodd, Mead & Company, and the later work, the New International Cyclopedia, of which I was co-editor-in-chief with the late President Gilman of the Carnegie Institute, formerly of the John Hopkin's University, and as I say, I was for twenty-two years a professor of the Latin language and literature in Columbia University, and prior to that time was instructor and lecturer for eight years at the same university, and was for a year classical lecturer at Barnard College, and have been asked frequently to come back there. I have received quite a number of degrees, some honorary and some not. For instance, those of them not, a degree of A. B. From Columbia. I received the degree of A. B. in 1881. I received the degree of A. M. from Columbia University in 1882. This is all from Columbia. I received the degree of Litt.D., which is also from Columbia, in 1884. I received the Honorary degree of Doctor of Philosophy from the Cumberland University in Tennessee in 1883. I received the honorary degree of LL.D. from Alfred University in New York State, and at the Ter-Centenary of Columbia they conferred upon me for scholarship the honorary degree of Doctor of Laws. That was in 1904, rather recent, and with complimentary remarks. I have been invited to receive the degree of Doctor of Letters from Tufts College near Boston. That was in 1910. I have also been invited to go out and receive any honorary degree I chose from the University of the South. That year I don't remember. It was back in the nine-

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ties. From the University of Michigan I received the same offer from Professor Kelsey, who represented the University, but I did not care to go so far in hot weather for the degree and I did not go. I was also invited to attend the anniversary of the University of Aberdeen, Scotland, and receive an honorary degree there, but it was not convenient for me to go that Summer, and so I did not go, but the offer was made. And two or three other foreign universities made the same offer, through President Butler of Columbia, and he urged me always to go, but I said, "What is the use of going over there just for another degree? I have got a bag full already." I spent a great deal of time in Europe. I studied at Oxford and Cambridge; I heard lectures at Berlin, and Paris University, and studied archaeology more particularly on the spot with Professor Lanciani of the University of Rome, likewise, and while in Rome I practically studied Latin at the Collegium Romanum. I don't know that there is anything further that I wish to add. I have done a great deal of desultory work, I mean in the way of study. That is, I mean when I have been abroad I used to go every Summer to lectures that were given at different universities, but that was more for studying methods than anything else, so it does not refer to lexicography; but only general knowledge.

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Q. 6. Were you connected in a teaching capacity with Columbia University? A. For thirty years; twenty-two years as professor, and then as instructor before that; instructor or tutor for eight years. That was all in Latin. But my Latin work there and Latin literature had a great deal to do with English, because I brought for-

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ward principles always from teaching Latin. In teaching Latin I tried to bring principles into the thing, showing practically that literature is one great world literature, and so I went far afield in English literature and French literature especially; but in Spanish and Italian also. After speaking of the history of classical philology I mentioned a lexical dictionary. The dictionary part should have gone together to make more harmony.

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Q. 7. Are you still connected with Columbia University? A. No, I have no connection with Columbia University.

Q. 8. When did your connection with Columbia University cease? A. In October, 1910.

Question and answer No. 9 omitted by consent.

Q. 10. Since that time what work have you been engaged in? A. Well, I was and am still in a certain sense associated with Dodd, Mead & Company as a sort of literary advisor. I have been connected closely with the Munsey Magazine, both as an advisor and as a writer, but not over my own name. I have written a good deal for popular periodicals, not over my own name, however, and I have acted as adviser to the Syndicate Publishing Company. This does not affect the dictionary that is in question.

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Q. 11. Your studies of course have given you an intimate acquaintance—A. May I stop to finish one more thing? I have spoken of myself simply as a lecturer in Latin or Professor of Latin with a tincture of English and other things. I was for a year or two years assistant in Hebrew at Columbia also, if that has any relevance. All this is equipment for lexicography or for the study of a dictionary.

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Q. 12. Your studies of course have given you an intimate acquaintance with practically all of the important dictionaries of the English language?
A. Yes.

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Q. 13. Will you outline the history of lexicography in English in the most general way? A. In the first place, I would rather divide the dictionaries or lexicons into groups, into classes. That will save a good deal of time and I will give the best one of each, or the most famous one of each, and if you want any more I will do that, but of course I could refer to and cut out the pages of the latest Worcester which has a list of all the English dictionaries, and I might have made it an exhibit.

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Q. 14. The purpose of the question is to have you divide if possible, the various dictionaries?
A. Well, the English dictionaries—now, of course in English they say that dictionaries began in 1499, but you see you don't mean dictionaries that were written in Latin, even though they were written to teach English, do you?

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Q. 15. No. A. The first English dictionary, a real English dictionary, was a dictionary by a man named John Bolleker in 1616, called an Exposition of Hard English, and that I call the first dictionary in England. That was an explanation simply, or definition work, that contained definitions. That was to my knowledge the first English dictionary in English in England. I mean by English modern English, of course, practically modern English. The reasons are important. Mr. Hale knows, and it is hardly worth while for me to tell him, because he knows all about it, but the question is, do I know anything about it? There are several types of English, or, any dic-

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tionaries you please, but of English dictionaries in particular. The first dictionary you might say of importance represents a type which is a word book, that is, a definer, and with a slight encyclopedic element. That is Webster, the dictionary of Webster, published in 1828. I omit his two little books he published in 1806. But the first type of English dictionary that I have in mind is a sort of combination of a definer and a little more than definition, that is, an encyclopedic element. That is, Webster quotes from authors to illustrate the habits of the wild ass, or something like that, whereas another type of dictionary would just define a wild ass and let it go at that. That is, I think the most popular type of dictionary, and it accounts for the great success of Webster; that is, it defines and gives enough collateral information to satisfy the reader. Then there is in the second place the pure word book, which I perhaps might have put in the first place, the pure word book. That is to say, a book with the titles of words given with simply their etymology and the bare definition, nothing amusing or interesting at all, but that many think to be best or highest type of dictionary, and the most famous specimen of that is a dictionary published in its final form in 1860 by John Ogilvie, a Scotchman, a graduate of Aberdeen, who suffered some accident which confined him to the house, and in his leisure he prepared a highly technical dictionary which appeared as I say in 1860 under the name of Webster's Imperial Dictionary, highly technical; he built it on Webster. It was very curious, because he took Webster's which was not a highly technical work, and worked around it and turned it into one, and that is oddly enough the source of a book

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that is purely encyclopedic, I might say, and not at all a pure word-book. Another type, a third type, is an encyclopedic dictionary, and that is the Century Dictionary. And another book, because we are all familiar with it, and a great many people of this country know it and a great many use it, the type of the word-book, plain, simple, hard definitions, and nothing else. And that is the Worcester. Of course he wrote dictionaries

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with Webster, and did all kind of things, but I omit those minor details. I am trying to bring out clearly the different types of dictionaries there are and the famous works you would pick out as an example. But the word-book type is represented by Worcester. His last edition follows a system just as Webster's last edition follows a system and theory; but the greatest thing in the word-book type is not finished. It is the new English dictionary published at the expense

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and under the direction of the English Philological Society, and edited by Drs. Murray and Bradley.

MR. HALE: Is that the one they call the Oxford dictionary?

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THE WITNESS: No, they call it the Clarendon Dictionary; the New English Dictionary does not mean anything, so they call it the Clarendon Dictionary, because practically it has the Clarendon principles, but the new imprint is that of the English Philological Society and it has been for twenty years—in 1890 it was half done, they had spent ten years on it, and now it is approaching completion. That is the greatest dictionary of its kind in the world and probably ever will be under those two scholars, who have labored and had any

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number of amanuenses or aids or assistants or helps. They have not spared any expense at all. And it is a huge, monstrous thing, and so expensive that probably nobody but libraries and very rich people will ever have a copy of it.

It does not come out in volumes exactly, but in parts like some of the German dictionaries.

MR. HALE: I want to interject an objection to part of what you are saying. The statement of the witness to the effect that John Ogilvie published a dictionary based upon Webster's dictionary, and that the same was published in England under the name of Webster's Imperial Dictionary, and the further statement of the witness that the Century Dictionary was in turn based upon Ogilvie, Webster's Imperial Dictionary of England, is objected to as incompetent, irrelevant and immaterial and not a fact within the personal knowledge of the witness, and motion is made to strike it out. 6170

THE WITNESS: The third type of lexicography or dictionary is highly encyclopedic, where practically every word is fitted out with anecdotes and illustrations and quotations and stories and so forth. The best type of that is the Century Dictionary in English and the Larousse Dictionary in French. Those are the different types; that is to say, the word-book, and the partly encyclopedic and the largely encyclopedic. 6172

Q. 16. Of which type is the Webster dictionary of 1828 which you have spoken of? A. It is the partly encyclopedic; it became more encyclopedic later.

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Q. 17. Was that the first English dictionary of that kind? A. Well, yes, to that extent; yes.

Q. 18. Would you say that the Webster Dictionary of 1828 was the first great example of that type of dictionary? A. Yes, to the best of my knowledge.

Q. 19. What earlier dictionaries were there of that type? A. In this country or England?

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Q. 20. In this country or England? A. In this country and England, both, Johnson was the standard work, the Johnson Dictionary, which appeared in 1775—1776 in England. Prior to that the standard had been the work of Nathan Bailey.

Q. 21. What relation was there between the Webster's Dictionary of 1828 and the Johnson Dictionary which you have mentioned?

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MR. HALE: Objected to as irrelevant, incompetent, immaterial and because not shown to be within the knowledge of the witness and as calling simply for an opinion.

A. There was no relation at all; Webster is an independent work, and in so far as he had to do with Johnson all he did was to criticise him. He had some very interesting things to say about him.

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Q. 22. What are the particular characteristics of the Webster's dictionary of 1828 other than those which you have already given by which you classify it in the slightly encyclopedic class? A. In answering that I should like to answer, out of Webster himself if you don't mind.

Q. 23. Surely. A. Webster has a chapter, I think it is 75, it is Chapter 75. I am quoting this "Of Dr. Johnson's dictionary and of the manner

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in which the following work is executed" (meaning his own). It is part of the preface to the original Webster, because Johnson having the greatest vogue of any lexicographer. Webster wants to point out wherein Johnson was defective and also to explain where he himself had struck out into a comparatively new field so I take it there are sixteen points in which Webster in that chapter sets forth his whole theory of lexicography negatively in criticising Johnson and positively in explaining what he himself has done. Now, I can give you that or, it is arranged in that way in the affidavit which you have in Webster's own words.

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MR. HALE: I suggest that you read it right into the record.

A. There is a special chapter in Webster's introduction in which he says, "Of Johnson's dictionary and of the manner in which the following work is executed." That is the title. Then he says there are eight defects in Johnson. Now, of course that is explaining his theory. These are Webster's own words, and when I depart from Webster's own words I will say so.

6179:

"1. The want of a great number of well-authorized words belonging to the language, even in common words of daily life."

"2. Another great fault is the manner of noting the accented syllables, the accent being laid uniformly on the vowel, whether it closes the syllable or not." As, for example "leader;" they put the accent on the "e" in leader, and then they put another accent, or they put an accent or a long mark on "e" in leader and put another mark after the syllable. You cannot do that by

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accent. That makes "leader," or something like that, or "leeder." There is no way but to spell out a word.

"3. Johnson's orthography is not correct upon principle." That means of course that he had no regular system of spelling.

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"4. The omission of the participles, or most of them, is no small defect, as many of them, by use, have become proper adjectives, and require distinct definitions." As, for example, take the word "direct."

"5. The want of due discrimination in the definition of words that are nearly synonymous, at other times not." That is, sometimes synonymous, at other times not. That is, sometimes not, at other times not. I won't define or explain. Those are Webster's words.

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"6. There are in Johnson's distionary some palpable mistakes in orthography because the author mistook the true origin of English words."

"7. The mistakes in etymology are numerous," and for the same reason.

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"8. The manner of defining words in Johnson is susceptible of improvement. In more important words, and particularly verbs, lexicographers, either from negligence or want or knowledge, have inverted the true order in the definitions. There is a primary sense of every word from which all the others have proceeded; and whenever this can be discovered, this sense should stand first in order."

Those are the eight criticisms on Johnson. Here are his own eight points, explaining his own views about what he has done:

"1. Where the sense of the word is plain and indisputable I have omitted to cite any authority."

These are all Webster's words.

"2. In the admission of words of recent origin, a lexicographer has to encounter many difficulties. It would not be judicious to reject all new terms, as these are often necessary to express new ideas. It seems to be his duty to insert and explain all words which are used by respectable writers or speakers, whether the words are destined to be received into general and permanent use or not." 6186

They may die out; but while they are in use, the lexicographer should include them.

"3. Lexicographers are sometimes censured for inserting in their vocabularies vulgar words and terms of art known only to particular artisans. That this practice may be carried too far is admitted; but it is to be remarked that, in general, vulgar words are the oldest and best authorized words in language; and their use is as necessary to the class of people who use them, as elegant words are to the statesman and the poet. It may be added, that such words are often particularly useful to the lexicographer, in furnishing him with the primary sense, which is no where to be found but in popular use." 6187

"4. I have also inserted many words which are local in England, but which are no more a part of our present language in the United States than so many Lapland words. These, however, occur in books which are occasionally read in this country." 6188

"5. Law terms which are no part of the proper language of the United States are, however, retained, as it is necessary that the gentlemen of the bar should understand them. As to Americanisms, so called, these I have admitted" but it

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will be found that "most of the new words charged to the coinage of this country were first used in England."

"6. The etymologies of words should be given." (Dr. Webster says this of unabridged dictionaries; in his own abridgments, he has sensibly left etymology largely alone.)

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"7. In regard to words which have been introduced into the language in modern days, I have generally referred them to the language from which the English immediately received them. A great part of these are from the Latin, through French; sometimes, probably, through the Italian or Spanish:"

"8. In the orthography of certain classes of words I have aimed at uniformity; but I have not proceeded so far as my own wishes might dictate."

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That is all you ask. Those sixteen points are the ones that constitute Webster's system both negatively and positively.

Q. 24. Have you made a careful examination of each one of the early Webster's Dictionaries? A. I have.

Q. 25. Did you find that each one of those early Webster's Dictionaries was similar in that it embodied each one of them sixteen characteristics or requirements of Webster himself?

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MR. HALE: Objected to as irrelevant and immaterial.

A. Well, the 1806 Webster was too small. For instance, Webster says he gives illustrations from authors and so forth, but in a little book like the 1806 book he did not do it. But beginning with the 1828 book, which was his first great production,

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of course, down to the present time, except that I have not examined carefully the last edition, Webster's New International Dictionary, beginning with the American Dictionary of the English language in 1828 down to the New International Dictionary 1909, this system of these points are all found to have been observed both by Webster himself, and afterwards by those who succeeded him. They followed him. They are all Websterian, or Webster's. He set the pace and laid down the law, and all his successors have followed him.

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Q. 26. What do you mean by the term "Websterian"? A. I mean, following out the principles of lexicography laid down by Webster in these sixteen points, and it does not mean written by Webster, composed by Webster or anything of the sort, but following Webster in the sense that you would say of Verdi's Falstaff,—"That was a Wagnerian opera." The same is true of his last two operas, but purely that is like "Die Meistersinger." It has all the ear-marks of Wagner there, and I believe if it had been put forth with Wagner's name attached, no one would have found any difference; and so when I say a dictionary is Websterian it means it has followed carefully and intelligently the doctrines of Noah Webster. Let me come down to the dictionary question, which is better than to quote an opera. There was Ambrogio Calepino, in the Renaissance. The date is uncertain, but in the Renaissance, he wrote a dictionary, the first dictionary, that was in two languages. That is, he had a Latin-Italian Dictionary, that was a wonderful thing. They had always defined Latin by Latin before. Then the idea spread and they had a trilingual dictionary, which was also called a Calepinus, although Cale-

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pino himself did not really make it, but the idea was his. It was a new thing. They went on finally, there were editions and editions. It must have been a glorious time for dictionary makers. There were dictionaries for every country. It was continued up finally to seven different languages. The definition would begin with Latin; that is to say, the word would be Latin, next the definition would be in Greek, next the definition would be in Italian, next German or English, and so on, in parallel columns, so a native of any country could pick up the book and find out what he wanted to know. Now, the last *Calepin* was made at the very end of the eighteenth century, and was called the *Calepino*, or in French they call it a dictionary "*Calepin*" to this day. Now, that is a case similar to what I mean by a dictionary being Websterian. There was a French Dictionary, only it was not Webster, it was *Calepino*. Then take another example. All the French directories in the large cities are called *Bottin*, because the first street or business directory in Paris was made by a man named *Bottin*. He has died, but the "*Bottin*" has passed into the language, and the "*Websterian*" has passed into the language. There is no implication in using the word "*Websterian*" that it necessarily means that Webster had anything to do with it except setting the model. Or if you please, take the other Webster—Daniel. Now, his style or eloquence is Websterian and people speak of it so. They say that Senator Corwin, who was one of the great orators of the thirties, forties or fifties, they say his eloquence was Websterian; not meaning that he copied from Webster, but that his style was sonorous, vivid and stately like that of Webster's.

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Q. 27. Do you use "Webster's" and "Websterian" as practically synonymous? A. Yes. I would prefer Websterian. I would prefer an adjective, in other words, to a noun. I don't think it makes any difference. They call a lexicon of Calepino, "Calepinus." I think an adjective is always better; like Byronic, for instance. But I don't think there is any difference at all. I was thinking of what I would do myself.

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Q. 28. You used the term Webster's Dictionary then in the same sense that you used the term Websterian, did you not?

MR. HALE: Objected to as irrelevant and immaterial, and because no such general usage is shown and this is limited to the usage of this one witness.

A. Yes, I would say that it is not limited to the fancy or taste or choice of this one witness, but to his observation and experience. He has found a great many people speaking of Webster's—Webster they will say is equivalent to a dictionary just as Calepino is equivalent to a dictionary in France, and just as Bottin is equivalent to a directory. I am using the adjective also. I think ultimately they will have some word that covers all dictionaries, and I think in a certain sense the name Webster covers most dictionaries. That is, with the multitude. They say "Give me a Webster," and they mean a dictionary, which doesn't necessarily mean a Webster Dictionary.

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Q. 29. Have you made a careful examination of the Webster's New Illustrated Dictionary, published by the Syndicate Publishing Company? A. I have.

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Q. 30. Have you made a careful examination of the Webster's New Century Dictionary, published by Cupples & Leon? A. I have.

Q. 31. Do those two dictionaries include the sixteen requirements or qualifications which you have suggested are or should be the characteristics of every Webster's dictionary?

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MR. HALE: Objected to as incompetent, irrelevant and immaterial, because calling for the opinion of the witness as to the Websterian test which he has set up and not going to the identity of the books themselves which is the sole test.

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A. In the sixteen points which Webster himself set forth he inserted one point, that is, that etymology should be given, and I said in my answer that he seems not to have meant it in abridged dictionaries. Now, with the exception of that one point, both these books follow out fifteen of Webster's sixteen points, and I think, I am not sure, but that Webster himself would not have attempted the etymology, that is too much, especially as these books had so many more words in than Webster's.

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Q. 32. Have you made a comparison of these books with some of the earlier editions of Webster's, so that you can say in addition to what you have already said, namely, that they embodied fifteen of the sixteen requirements of Webster, that they also have taken bodily the most important parts of the definitions written by Webster himself.

MR. HALE: Objected to as incompetent, irrelevant, immaterial, as calling for sec-

